24.09.2021
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F.M.A. 584 of 2018
I.A. CAN 1 of 2021
(Via Video Conference)

Beena Podder
Vs.
The New India Assurance Co. Ltd. & anr.

Mr. Saidur Rahaman
...For the Appellants/claimants

Mr. Sanjay Paul
... For the respondent No.1/Insurance Co.

The instant appeal is directed against the judgment and award dated December 5, 2016 passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court, Malda in MAC Case No. 71 of 2016 praying for compensation for death of Sourav Kumar Podder in a road traffic accident under Section 166 of the Motor Vehicles Act.

The facts of the case are not in dispute.

Mr. Rahaman, learned Advocate for the appellants/claimants submit that the learned Tribunal committed error in law while not assessing the monthly income of the deceased as Rs.5,000/- instead of Rs.3,000/- on the basis of uncontroverted oral evidence as adduced by the mother of the deceased.

Mr. Rahaman further submits that the learned Tribunal committed error in law while not granting 40% additional income towards future prospect since the deceased was 20 years old self-employed person. Learned tribunal also committed error in law while adopting multiplier 16 but fact remains that as per post mortem report the deceased was 20 years old and as per schedule appended in the case of **Smt. Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.,** reported in **(2009) 6 SCC 121,** the appropriate multiplier is 18.

Mr. Rahaman further submits that the learned Tribunal ought to have granted Rs.30,000/- instead of Rs.4,500/- towards general damages.

Mr. Paul, learned Counsel appearing for the insurance company submits that the learned Tribunal committed error in law while deducting 1/3rd instead of 50% from the income of the deceased towards personal expenses as the deceased was a bachelor.

Considering the judgement of **Smt. Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.,** reported in **(2009) 6 SCC 121** and **National Insurance Company Ltd. Vs. Pranay Sethi & ors.** reported in **(2017) 16 SCC 680** and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. Since the accident occurred in the year 2015, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. The appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased since the victim was 20 years old as per post mortem report and self-employed person. Since the deceased was bachelor, deduction shall be 50% towards personal expenses of the deceased and general damages shall be Rs.30,000/-.

Considering the ratio as decided in the case of **Sarla Verma (**supra) and **Pranay Sethi (**supra), the impugned award passed by the tribunal is modified and recalculated in the manner referred hereinafter :

Particulars	Amount
Monthly income	Rs.5,000/-
Add : Future Prospect 40%	Rs.2,000/-
	Rs.7,000/-
Annual income X12	Rs.84,000/-
Less : 50% for personal expenses	Rs.42,000/-
Annual loss of dependency	Rs.42,000/-
Multiplier '18'	Rs.7,56,000/-
Add : General damages	Rs.30,000/-
	Rs.7,86,000/-
Less:Awarded amount already paid	Rs.3,88,500/-
Enhanced principal amount	Rs.3,97,500/-

The claimants acknowledge receipt of the awarded amount of Rs.3,88,500/- in terms of direction of the learned Tribunal. Accordingly, the balance enhanced sum of Rs.3,97,500/- would become payable to the appellants/claimants by the insurance company together with interest @ 6% p.a. on and from the date of filing of the claim petition till actual payment within a period of 45 days from the date of receipt of the bank account particulars of the claimants.

Mr. Rahaman, learned Advocate for the appellants/claimants submits that his clients have received only awarded sum of Rs.3,88,500/- but no amount towards interest was deposited by the insurance company.

In reply, Mr. Paul, learned Advocate appearing for the insurance company submits that he has no instruction regarding non-deposit of interest as granted by the learned Tribunal.

Be that as it may, the insurance company is directed to pay interest @ 6% per annum on the awarded sum of Rs.3,88,500/- from the date of claim application till date of deposit of such amount before the tribunal, if not paid earlier.

It is made clear that the payment shall be made by NEFT/RTGS in the same manner and proportion as per award.

With the aforesaid directions, the instant appeal is disposed of. There shall be no order as to costs.

In view of the disposal of this appeal, connected application, if any, is also disposed of.

L.C.R., if any, be returned back to the court below forthwith.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Shekhar B. Saraf, J.)