

08.01.2021.
Item no. 129.
Court No. 13
ap

F.M.A. No. 625 of 2014

Mampi Ghosh & Ors.
Versus
The National Insurance Company Limited & Anr.

Mrs. Sima Ghosh.

..For the appellants.

Mrs. Sucharita Paul.

...For the respondents.

The instant appeal is directed against the judgment and order dated 27th March, 2008 passed by the learned Judge, Motor Accident Claims Tribunal, 3rd Court, Suri, Birbhum in M.A.C. Case No. 166 of 2005.

The claim petition was filed under Section 163A of the Motor Vehicles Act, 1988.

The facts of the case are not in dispute and hence, not separately set out herein. The same are contained in the impugned judgment.

The only point of argument raised by the Counsel for the appellants is that the victim was 28 years old at the time of death and yet the annual income of the victim was calculated only at Rs.15,000/- in terms of the Schedule.

Since the victim was 28 years old, married and had four children, this Court is of the view that the income of the victim should have been taken at Rs.3,000/- per month.

In those circumstances, the compensation payable to the victim is recalculated as follows:

Particulars	Amount (Rs.)
Yearly income (Rs.3,000/- x 12)	36,000.00
Less: 1/3 rd personal expenses	12,000.00
	24,000.00
Multiplier of 18 be used as per age of the deceased	(x) 18
	4,32,000.00
Collective heads of General Damages	9,500.00
Total	4,41,500.00
Less: amount already withdrawn by the claimants	1,82,000.00
Total	2,59,500.00

The total amount payable to the appellants should be a sum of Rs.4,41,500/-. The sum awarded by the Court below being a sum of Rs.1,82,000/- has been received by the appellants and the differential amount comes to Rs.2,59,500/-. The appellants shall be entitled to interest @ 7% per annum, on the sum of Rs.1,82,000/- from the date of filing of the claim petition till the date of deposit of the amount by the Insurance Company with the Tribunal below.

On the balance sum of Rs.2,59,500/-, the appellants shall be entitled to interest @ 7% per annum from the date of filing of the claim petition till the date of actual payment.

The payment as above shall be made by the Insurance Company into the Bank Account of the appellants in the proportion ordered by the Tribunal

within a period of 45 days from the date of receipt of the Bank particulars of the appellants from the Counsel for the appellants.

The Insurance Company shall, upon payment of the balance amount, be entitled to recover the entire sum paid to the appellants from the owner of the vehicle for the reasons already recorded by the Court below.

With the aforesaid observations, the instant appeal shall stand disposed of.

The lower court records shall be sent back to the Court below by the Registry forthwith.

There will be no order as to costs.

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

(Rajasekhar Mantha, J.)