

S/L 7
28.9.2021
Court No.26
SD

FMA 232 of 2019
(Via Video Conference)

Smt. Shanti Mahato & Anr.
Vs.
The New India Assurance Co. Ltd. & Anr.

Mr. Saidur Rahaman

...for the Appellants/Claimants.

Mr. Sanjay Paul

...for the Respondent/Insurance Co.

This appeal is directed against the judgment and award dated December 19, 2016 passed by the learned Additional District & Sessions Judge, 2nd Court, Motor Accident Claims Tribunal, Raiganj, Uttar Dinajpur in M.A.C. Case No.86 of 2015 on a claim under Section 166 of the Motor Vehicles Act, 1988 for the accidental death of Prashanta Kumar Mahato..

The facts of the case are not in dispute.

Counsel for the appellants/claimants submits that the Tribunal committed error in law while not granting Rs.1,42,710/- towards medical expenses since the claimants have produced all original prescription and bills pertaining to the treatment of the said victim named Prashanta Kumar Mahato.

He further submits that the Tribunal committed error in law while not granting 50% additional income towards future prospect since the deceased was a permanent lecturer of Uttar Dinajpur Primary Training Institute and getting a salary of Rs.17,382/-. He was 31 years old at the time of accident.

In reply, counsel for the respondent/insurance company submits that the award passed by the Tribunal is absolutely just while not granting Rs.1,42,710/- towards medical expenses since the claimants failed to adduce any evidence by calling upon the author of the said documents.

He further submits that the Tribunal is just while not granting any additional amount towards future prospect

since the claimants failed to prove the prospect of the deceased by producing any cogent evidence.

Heard the parties. It is true that the claimants failed to adduce any evidence by calling upon the author of the medical documents before the Tribunal. Therefore, I am not inclined to grant any amount towards medical expenses.

However, the Tribunal committed error in law while not granting 50% additional income towards future prospect since the deceased was permanent lecturer of Uttar Dinajpur Primary Training Institute and getting a salary of Rs.17,382/- and the claimants were able to establish the same by adducing uncontroverted evidence of the said employer, PW-3.

Considering the judgments of **Smt. Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr.** reported in **(2009) 6 SCC 121** and **National Insurance Company Limited vs. Pranay Sethi & Ors.** reported in **(2017) 16 SCC 680**, the impugned award is thus modified and recalculated as follows:-

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly Income	17,382.00
Annual Income (Rs.17,382/- x 12)	2,08,584.00
Add 50% future prospect	<u>1,04,292.00</u>
Total income	3,12,876.00
Less 50% on account of personal expenses	1,56,438.00
Loss of annual dependency	1,56,438.00
Multiplier 16	25,03,008.00
General damages	30,000.00
Total compensation	25,33,008.00

Counsel for the appellants acknowledges that the claimants have already received the awarded sum of Rs.16,78,670/- that has been paid by the insurance company. The differential amount which comes to Rs.8,54,338/- together with 6% per annum interest from the date of filing of the claim application till payment which shall be paid to the claimants in the same manner as indicated in the award within 30 days of receipt of particulars of their bank accounts to be supplied by his counsel to the counsel for the insurance company.

He further submits that his clients have received only awarded sum of Rs.16,78,670/- but no amount towards interest, as granted by the tribunal, was deposited by the insurance company. In reply, Mr. Paul submits that he has no instruction regarding non-deposit of interest as granted by the Tribunal.

Be that as it may, the insurance company is directed to pay the interest @ 6% per annum on the awarded sum of Rs.16,78,670/- from the date of claim application till the date of deposit of such amount before the Tribunal, if not paid earlier.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as ordered by the Court below.

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 applications, if any, are also disposed of.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)