02.08.2021
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(Via Video Conference)

F.M.A. 235 of 2019

I.A. No. CAN 1 of 2019 (old No. CAN 6954 of 2019)

Purnima Saha Modak & ors.
Vs.
The New India Assurance Co. Ltd. & anr.

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

Mr. Parimal Kumar Pahari
... For the respondent/Insurance Co.

This appeal is directed against the judgement and order dated 27th April, 2018 passed by the Learned Judge, Motor Accident Claims Tribunal and Additional District & Sessions Judge, Raiganj, Uttar Dinapur in M.A.C. Case No.60 of 2017 on a claim under Section 166 of Motor Vehicle Act, 1988 for the death of one 'Tapan Modak' who was aged about 31 years in a motor vehicular accident.

The claimants in the instant appeal have challenged the quantum of compensation on various points. It is submitted on behalf of the learned Advocate for the appellants that the learned Tribunal has erred in assessing the monthly income of the deceased at Rs.4,000/-. The income was claimed at Rs.6,000/- by the victim. Further, the claimants were not granted any amount under 'future prospect'. Lastly, it was submitted that the interest allowed by the learned Judge is on a much lower side. Accordingly, it is argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the learned Advocate representing the Insurance Company argues that in the facts and circumstances of the case, the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgements 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. For the incident in the year 2016, 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' as the deceased was 31 years old. The learned Tribunal has justly awarded interest on compensation from the date of filing of the claim.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter:

Particulars	Amount (Rs.)
Monthly Income	Rs.5,000/-
Annual Income	Rs.60,000/-
Less 1/3rd for personal expenses (Rs.20,000/-)	Rs.40,000/-
Add 40% future prospect (Rs.16,000/-)	Rs.56,000/-
Multiplier '16'	Rs.8,96,000/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.9,66,000/-
LESS – awarded by the Tribunal and paid by the insurer	Rs.4,82,007/-
BALANCE (enhancement)	Rs.3,83,993/-

The claimants have received the awarded amount of Rs.5,82,007/- along with interest thereon. Accordingly, the balance enhanced sum of Rs.3,83,993/- would become payable to the appellants by the Insurance Company together with interest assessed at the rate of 6% per annum on and from the date of filing of the claim petition within a period of 45 days from the date of receipt of the bank particulars of the appellants. Learned Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made in the proportion decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

In view of the disposal of this appeal, connected applications, if any, are also disposed of. The concerned

Department is directed to tag the applications, if any, with the main appeal.

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, on priority basis.

(Shekhar B. Saraf, J.)