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(Via Video Conference)

F.M.A. 238 OF 2021
with
I.A. No. CAN 1 OF 2020
(Old No. CAN 2706 of 2020)

Rinku Ghosh & Ors.
-Vs.-
The New India Assurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee

...For the Appellants/
Claimants.

Ms. Sayanti Santra

...For the Respondent/
Assurance Co.

By consent of the parties, the instant appeal is treated as on day's list and is taken up for hearing.

The appeal is directed against the judgment and order dated November 16, 2019 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, 3rd Court, Krishnagar, Nadia in Motor Accident Claim Case No. 389 of 2015.

The facts of the case are not in dispute.

The claim application has been filed under Section 166 of the Motor Vehicles Act, 1988. The only issue is with regard to the monthly income of the deceased that was taken as Rs.3,000/- per month to be the income of the victim. This Court, as per the practice followed, has considered the income of the deceased as Rs.4,000/- per

month. The tribunal has not further considered future prospect of the deceased.

Counsel appearing on behalf of the parties submitted that the claimants are entitled to get compensation in view of the law as laid down in ***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***.

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

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly Income =	Rs.4,000/-
Add 40% future prospect	Rs.1,600/-

	Rs.5,600/-
Annual Income (X 12)	Rs.67,200/-
Less 1/3 rd for personal expenses	Rs.22,400/-

	Rs.44,800/-
Multiplier (16) – Rs.44,800/-X 16	Rs.7,16,800/-
Add General Damages	Rs.70,000/-

	Rs.7,86,800/-
Less – awarded amount already paid by the insurer	Rs.4,54,000/-

Enhanced Principal Amount	Rs.3,32,800/-

Since the entire amount that has been awarded by the tribunal has been paid by the Insurance Company, the differential amount which comes to Rs.3,32,800/- shall be paid to the appellants/claimants within 45 days of receipt of the particulars of their bank accounts to be

supplied by the counsel to the counsel for the Insurance Company.

Enhanced principal amount i.e., Rs.3,32,800/- shall carry interest @6% per annum from the date of filing of the claim application till the date of actual payment.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as has been directed by the tribunal.

With the aforesaid directions the instant appeal is disposed of.

LCR, if any may be returned back to the Court below.

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