16 Sc 23.8.2021

(Via Video Conference)

F.M.A. 1668 OF 2019
with
I.A. No. CAN 1 OF 2019
(Old No. CAN 5146 OF 2019)

Golapsa Laila Fardous & Ors.

Vs.

The United India Insurance Company Ltd. & Anr.

Mr. Saidur Rahaman

...For the Appellants/ Claimants.

Mr. Sanjay Paul

...For the Respondent / Insurance Co.

The appeal is directed against the judgment and award dated 27.07.2018 passed by the learned Additional District & Sessions Judge, M.A.C. Tribunal, 2nd Court, Raiganj, Uttar Dinajpur in M.A.C. Case No. 53 of 2017 in a claim under section 166 of the M.V. Act 1988 for the accidental death of Saukat Ali.

The facts of the case are not in dispute.

Learned advocate for the appellants/claimants submits that the 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 widow of the deceased.

Learned advocate for the appellants/claimants further submits that the tribunal committed error in law while not granting 40% additional income towards 'future prospect' since the deceased was 27 years old self-employed person.

Learned advocate for the respondent/insurance company submits that the award passed by the tribunal is absolutely just and there is no scope of any further enhancement of the award.

Considering the judgments 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 practice of this Court on the point of monthly income, I find substance in the arguments of the appellants/claimants. Since the accident occurred in the year 2017, 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/claimants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased.

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

Particulars	**Amount (Rs.)**
Monthly Income	5,000/
Annual Income (x 12)	60,000/
Add future prospects 40%	24,000/
Total income	84,000/
Less 1/4th deduction towards personal expenses	21,000/
Loss of annual dependency	63,000/
Multiplier 17	10,71,000/
General damages	70,000
Total compensation	11,41,000/

Mr. Rahaman acknowledges that the appellants/claimants have already received the awarded sum of Rs.5,29,000/ together with interest that has been paid by the insurance company, the differential amount comes to Rs.6,12,000/ together with interest @6% per annum from the date of filing of claim application till payment which shall be paid to the appellants/claimants in the same manner as indicated in the award within thirty days of receipt of the particulars of their bank account details to be supplied by their advocate to the advocate for the insurance company.

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

Accordingly, with the above directions the appeal is disposed of.

In view of the disposal of the appeal, connected applications, if any, are also disposed of. The department concerned is directed to tag the applications, if any, with the main appeal.

The department is directed to send down the lower court records, if arrived, immediately.

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.

(Shekhar B. Saraf, J.)