15.09.2021
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F.M.A. 1017 of 2018

(Via Video Conference)

Rumela Bibi & anr.
Vs.
The National Insurance Co. Ltd. & anr.

Ms. Sima Ghosh
...For the appellants/claimants

Mr. Debnarayan Roy
... For the respondent no./insurance company

The instant appeal is directed against the judgment and order dated May 8, 2017 passed by the learned Additional Judge, Motor Accident Claims Tribunal, 4th Court, Berhampore, Murshidabad in MAC Case No. 270 of 2012 on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one Mohidul Hque @ Maidul Haque (17 years old), a rickshaw puller who earned Rs.3,000/- per month, in a road accident dated 06.05.2012.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellant that the learned Tribunal committed error in law while assessing annual income and the multiplier should be applied as per deceased's age not his father/parents age.

It is also submitted on behalf of the appellants/ claimants that the learned Tribunal committed error in law while assessing annual income of the victim that future prospect not granted which should be 40% increase as claimant being a labour of unorganised sector and also general damages that he is entitled to on the basis of non-pecuniary damages in the instant case.

In reply, Mr. Roy, learned Advocate for the respondent/insurance company submits that the award passed by the learned Tribunal is absolutely just and there is no scope for interference and/or modification of the award.

Considering the judgement passed 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 and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants, under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.3,000/- per month does not appear to be exorbitant. The appellants are justified in praying for 40% additional amount towards future prospect, since the deceased (18 years old) was an unorganised sector employee/rickshaw puller. The appellants also raise the question of non-pecuniary damages which collectively should be Rs.30,000/-. Accordingly, the impugned award is modified and recalculated in manner referred hereinafter:-

Particulars		Amount
Monthly income		Rs.3,000/-
Add : Future prospect 40%		Rs.1,200/-
Total monthly income		Rs.4,200/-
Annual Income (X12)		Rs.50,400/
Less : 1/2 deduction for personal expenses		Rs.25,200/-
Multiplier ‘18’ (Rs.25,200/- X 18)		Rs.4,53,600/-
Collective General damages	(+)	Rs.30,000/-
Total compensation		Rs.4,83,600/-

The claimants acknowledge receipt of the awarded amount of Rs.1,29,500/- along with interest in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.3,54,100/- would become payable to the appellants/claimants by the insurance company together with interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition, that is, 19.07.2012, till the date of its final payment within a period of 45 days from the date of receipt of the bank account particulars of the appellants. Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to Advocate for the insurance company.

It is made clear that the payments shall be made by NEFT/RTGS as per award.

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.)