S/L 5
19.7.2021
Court No.26
SD

FMA 932 of 2011
(Via Video Conference)

Smt. Dipali Chatterjee & Anr.
Vs.
The New India Assurance Co. Ltd. & Ors.

Mr. Saidur Rahaman
... for the Appellants/Claimants.
Mr. Parimal Kumar Pahari
... for the Respondents/Insurance Co.

This appeal has been filed against the judgment and award dated August 13, 2010 passed by the Judge, Motor Accident Claims Tribunal, 6th Court, Alipore in MAC Case No.226 of 2007 under Section 163A of the Motor Vehicles Act, 1988.

Mr. Saidur Rahaman, counsel appearing on behalf of the appellants, submits that the Tribunal has erred in using the multiplier of 5 considering the age of the father of the deceased instead of using the multiplier of 17 considering the age of the deceased and further erred in not allowing interest on compensation from the date of filing of the claim case and erred in allowing interest from the date of the order @ 5% per annum.

Mr. Parimal Kumar Pahari submits that the award passed by the learned Tribunal is just and the award impugned deserves no interference.

The Court finds merits in the submissions of Mr. Rahaman as the 2nd Schedule appended to Section 163(A) prescribed the appropriate multiplier on the basis of the age of the victim. The age of the victim is 22 years. As per second schedule appropriate multiplier should be 17 for the age group of 20 to 25. Further the interest should be from the date of filing of the claim.

As such, the amount of compensation requires to be reassessed. Income of the deceased Rs.3000/- per month.

Then 1/3rd is to be deducted for personal expenses of the deceased. So dependency is Rs.2000/- x 12 = 24,000/- to which if multiplier of 17 is applied it comes to Rs.24,000/- x 17 = Rs.4,08,000/-. The claimants are also entitled to Rs.2500/- for loss of estate and Rs.2000/- for funeral expenses. Thus total compensation comes to Rs.4,08,000/- + 2,500/- + 2,000/- = Rs.4,12,500/-.

The claimants are also entitled to interest @ 6% p.a. from the date of filing of the claim till actual payment.

The claimants have received the amount awarded by the Tribunal. The insurance company herein will pay the balance amount of Rs.2,88,000/- to the claimants along with interest @ 6% p.a. from the date of filing of the claim till actual payment.

Counsel for the appellants will supply the bank particulars of the claimants to the counsel for the Insurance company within three weeks from date. The Insurance company will deposit the compensation amount to the said account within 30 days after receipt of the bank particulars in the mode and manner as in the award of the Tribunal.

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 application, if any, is 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.)