Ct. No. 26

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F.M.A. 1319 of 2016

Smtya Jharna Pradhan & Ors.
Vs.
The National Insurance Co. Ltd. & Anr.
(Via Video Conference)

Mr. Amit Ranjan Roy ...**For the Appellants/Claimants**

Mr. Kanak Kiran Bandyopadhyay
...**For the Respondent/Insurance Co.**

This appeal is directed against the judgment and award dated April 30, 2012 passed by the learned Judge, Motor Accident Claims Tribunal-cum-Additional District & Sessions Judge, 4th Fast Track Court, Tamluk, Purba Medinipur, in M.A.C. Case No. 19 of 2009 / 355 of 2008, in a claim under Section 166 of the Motor Vehicles Act, 1988 on account of death of one Kanailal @ Kanai Pradhan in a road accident which occurred on July 23, 2008.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation. Mr. Amit Ranjan Roy, learned Counsel appearing on behalf of the appellants, submitted that claimants/appellants were not granted any amount under 'future prospect' and they are entitled to 10% addition on the said account. Further, it is the case of the appellants that the learned Court below erred in deducting 1/3rd of the income of the deceased for 'personal expenses' in spite of the fact that there are five number of dependents/claimants. The claimants/appellants also submitted that the appellants are entitled to get Rs.70,000/- under different heads of 'general damages' instead of Rs.9,500/- as held by the learned Court below. Lastly, appellants pleaded that considering the 51 years age of the deceased, the correct multiplier should have been 11 instead of 9 as applied by the learned Tribunal.

Accordingly, it was argued on behalf of the appellants/claimants that a lesser quantum of compensation has been awarded by the learned Tribunal.

Per contra Mr. Kanak Kiran Bandyopadhyay, learned Counsel, representing the respondent Insurance Company vehemently opposed and contradicted the above contention of the claimants/appellants and submitted 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 award.

However, considering the judgments of the Hon'ble Apex Court in the case of ***Smt. Sarala Verma & Ors. –Vs.- Delhi Transport Corporation & Anr.***, reported in **(2009) 6 SCC 121** and in the case of **National Insurance Company Limited -Vs.- Pranay Sethi & Ors.**, reported in **(2017) 16 SCC 680**, I find substance in the submissions of the appellants/claimants and they are justified in praying 10% addition on the account of 'future prospect' on the income of the 51 years old deceased and $1/4^{th}$ deduction on account of personal expenses of the deceased instead of $1/3^{rd}$, in view of the fact that there were five number of dependants/claimants. I am also of the view that the multiplier should have been 11 and the appellants/claimants are entitled to general damages of Rs.70,000/-.

Accordingly, the impugned award is required to be modified and recalculated in the following manner :

Monthly income	**Rs.**	**3,000/-**
Yearly income	**Rs.**	**36,000/-**
Add $1/4^{th}$ deduction (36,000-9,000)	**Rs.**	**27,000/-**
Add. 10% future prospect	**Rs.**	**2,700/-**
Total loss of income	**Rs.**	**29,700/-**

Age 51 Multiplier 11 (29,700 X 11) (67200X16)	**Rs.3,26,700/-**
General damages	**Rs. 70,000/-**
Total compensation	**Rs.3,96,700/-**
Tribunal awarded	**Rs.2,25,500/-**
Compensation payable	**Rs.1,71,200/-**

Mr. Roy acknowledges that the appellants / claimants received the entire awarded sum of Rs.2,25,500/- along with interest in terms of the direction of the learned Tribunal. Accordingly, the balance enhanced sum of Rs.1,71,200/- would become payable to the appellants/claimants by the respondent Insurance company together with interest assessed @ 6% per annum on and from the date of filing of the claim application till the date of payment.

The respondent Insurance Company is hereby directed to pay Rs.1,71,200/- with 6% interest per annum on and from the date of filing of the claim application till the payment made directly to the bank account of the appellants/claimants within a period of 45 days from date.

It is made clear that all the payments shall be made through NEFT/RTGS to the bank accounts of the appellants/claimants and for such purpose the Counsel for the appellants/claimants shall furnish bank accounts particulars of the appellants/claimants to the Counsel for the Insurance Company within two weeks.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, connected application, if any, is also disposed of. The concerned Department is directed to trace out the application and tag the same with this appeal.

There shall be no further order as to costs.

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

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.)