S/L 12
08.9.2021
Court No.26
SD

FMA 842 of 2018
(Via Video Conference)

Anowar Hossain & Ors.
Vs.
The Oriental Insurance Co. Ltd. & Anr.

Mr. Muktakesh Das
... for the Appellants/Claimants.

Mr. P.K. Pahari
... for the Respondent/Insurance Co.

This appeal is directed against the judgment and award dated April 26, 2017 passed by the learned Additional Judge, Motor Accident Claims Tribunal, 4th Court, Murshidabad in M.A.C. Case No.43 of 2014 in a claim under Section 163A of Motor Vehicles Act, 1988 for the accidental death of Basir Hossain on 24.01.2014.

The facts of the case are not in dispute.

Counsel for the appellants/claimants submits that the Tribunal committed error in law while not assessing the monthly income of the deceased as Rs.3,300/- per month instead of Rs.15,000/- per annum.

Counsel for the respondent/Insurance Company submits that the Tribunal is just while not assessing monthly income of the deceased Rs.3,300/- per month since the claimants failed to produce any cogent evidence before the Tribunal to establish the monthly income of the deceased.

Be that as it may considering the rival submissions of the parties as well as observation of the Hon'ble Supreme Court in Laxmi Devi & Ors. vs. Mohammad Tabbar & Anr. on March 25, 2008 as well as general practice of this High

Court, above award passed by the Tribunal below is modified and recalculated as follows:-

Particulars	Amount (Rs.)
Monthly Income	3,000.00
Annual Income (Rs.3000/- x 12)	36,000.00
Less 1/3rd personal expenses	12,000.00
Annual loss of dependency	24,000.00
Multiplier 17 (24,000/- x 17)	4,08,000.00
Add General damages (Rs.2000/- for funeral exp. Rs.2500/- for loss of estate Rs.5000/- for consortium expenses)	(+) 9,500.00
Total compensation	4,17,500.00

The appellants also submit that they have received the awarded amount of Rs.1,79,500/- along with interest at the rate of 6 per cent per annum from the date of filing of the claim case on February 6, 2014 till its realization.

Therefore, balance enhanced sum of Rs.2,38,000/- would become payable to the appellants by the Insurance company together with interest assessed at the rate of 6 per cent per annum on and from the date of filing on February 6, 2014 of the claim petition till the date of realization.

The enhanced compensation together with interest as stated above is to be paid by the insurance company to the claimants within a period of 30 days of receipt of particulars of their bank accounts to be supplied by their counsel 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.

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 applications, if any, are 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.)