06.07.2021
ss

F.M.A.T. 36 of 2020

(Via Video Conference)

Sabina Khatun @ Sabina Bibi & anr.
Vs.
The National Insurance Co. Ltd. & anr.

Mr. Saidur Rahaman ...For the Appellants/claimants

Ms. Sucharita Paul
... For the respondent No.1/Insurance Co.

The appeal is directed against the order and award dated April 12, 2019, passed by the Learned Judge, Motor Accident Claims Tribunal, 4th Court, Berhampore, Murshidabad, in M.V. Case No. 471 of 2016, on a claim under Section 166 of the Motor Vehicles Act, 1988.

The claimants submit that the victim was earning Rs.6,000/- per month as an electrician and by selling electrical goods. However, learned tribunal erroneously assessed the compensation on the basis of monthly income of Rs.3,000/-. It is further stated the claimants are entitled to 25% future prospects on the income of the deceased and a total sum of Rs.70,000/- on the collective heads of general damages in view of the law as it stands now after the judgment delivered by the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680***.

Mrs. Paul, the learned Advocate appearing on behalf of the Insurance Company argues that the learned Tribunal was correct in accepting the income of the victim to be Rs.3,000/- in absence of any documentary evidence. It is further submitted that the multiplier in the instant case should be 14 instead of 15, in view of the judgement passed by Hon'ble Supreme Court in the case of ***Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.***, reported in ***(2009) 6 SCC 121***.

This Court is inclined to accept the submissions made on behalf of the Insurance Company. However, it is now accepted in this court for some time that the year 2015 onwards, the base income has to be taken at Rs.5,000/- per month. Further, such amount of Rs.5,000/- per month does not appear to be exorbitant at all for the year 2016, as an unskilled worker working on all days could have earned Rs.5,000/- per month. Accordingly, on such basis and considering the submissions as advanced by the learned advocates for the parties in my opinion, the monthly income of the victim should be taken as Rs.5,000/-.

The impugned award is thus modified and recalculated. The monthly income of the victim is taken to be Rs.5,000/- per month. Upon adding 25% as future prospect, such amount comes to Rs.6,250/- per month. After annualizing the same and deducting 1/3rd as personal expenses, it is the figure of Rs.50,000/- on which a multiplier of 14 would be applied. The net pecuniary compensation comes to Rs.7,00,000/-. The claimants are also entitled to Rs.70,000/- as nonpecuniary expenses, taking the gross compensation to Rs.7,70,000/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge receipt of the entire awarded amount along with interest. The balance sum of Rs.3,94,500/- would become payable to the appellants together with interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition within a period of 45 days from the date of receipt of the bank account particulars of the appellants. To this effect, learned Counsel for the claimants shall furnish the particulars of the Bank Accounts of the claimants to the learned Advocate for the Insurance Company, within 3 weeks from date. The payment shall be made in the proportion decided by the Court below.

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.)