

S/L 3
27.9.2021
Court No.26
SD

FMA 599 of 2010
(Via Video Conference)

Smt. Rama Das & Ors.
Vs.
New India Assurance Co. Ltd. & Anr.

Mr. Krishanu Banik

...for the Appellants/Claimants.

Mr. Parimal Kumar Pahari

...for the Respondent/Insurance Co.

This appeal is directed against the judgment and award dated February 21, 2009 passed by the learned Judge, 3rd Court, Motor Accident Claims Tribunal, Howrah in M.A.C. Case No.265 of 2005 on a claim under Section 166 of the Motor Vehicles Act, 1988.

The facts of the case are not in dispute.

Counsel for the appellants/claimants submits that the Tribunal was wrong in assessing the annual income of the deceased as Rs.15,000/- per annum instead of Rs.36,000/- (Rs.3000/- x 12) and further not assessing the general damages as Rs.70,000/- and also not granted the future prospect of the victim deceased as 40% as additional income of his actual income while passing the impugned award under the present appeal.

Counsel for the respondent/insurance company has vehemently opposed the submissions and contentions of the counsel for the appellants. He further submits that the Tribunal has rightly passed the impugned award since the same is quite justified and reasonable.

In view of the law as it stands now, after the judgments delivered by the Hon'ble Supreme Court in the case of ***National Insurance Company Limited vs. Pranay Sethi & Ors.*** reported in **(2017) 16 SCC 680** the submissions and the points made by Mr. Banik are accepted.

After considering the submission and rival contention of the counsel appearing on behalf of the parties, the impugned award is thus modified as stated hereinafter:-

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly Income	3,000.00
Annual Income (Rs.3000/- x 12)	36,000.00
Add 40% future prospect	(+) 14,400.00
	50,400.00
Less 1/3 rd on account of personal expenses	(-) 16,800.00
	33,600.00
Multiplier 15 (Rs.33,600/- x 15)	5,04,000.00
General damages	(+) 70,000.00
Total compensation	<u>5,74,000.00</u>

Mr. Banik acknowledges that his clients have already received a sum of Rs.1,69,500/- together with interest that has been awarded by the court below and has been paid by the insurance company, the differential amount which comes to Rs.4,05,500/- together with 6% interest from date of filing of the claim application till payment which shall be paid to the claimants by the insurance company in the same manner as indicated in the award within 45 days from the date of receipt of the particulars of their bank accounts to be supplied by their counsel to the 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.)