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(Via Video Conference)

F.M.A 845 of 2018
with
I.A. No. CAN 1 of 2017
(Old No.CAN 11141 of 2017)

Binodini Maiti (Sautya) & Ors.
Vs.
The National Insurance Company Limited & Anr.

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

Mr. Rajesh Singh
....For the Respondent/ Insurance Company

The instant appeal has been filed by the appellants/claimants being aggrieved by the judgment and award dated July 7, 2017 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Fast Track Court, Tamluk, Purba Medinipur in M.A.C. Case No. 127 of 2013.

The claim application has been filed under Section 166 of the Motor Vehicles Act, 1988 in respect of an accident that took place on May 29, 2012.

Three points have been mainly raised by the appellants/claimants in the instant appeal. Mr. Roy, counsel appearing on behalf of the appellants/claimants submits that the tribunal assessed the monthly income of deceased as Rs.3000/- which is inadequate. He further submits that the claimants were not granted any amount under "Future Prospect'. Lastly, the appellants/claimants were granted only Rs.9,500/- as “General Damages” against their lawful entitlement of Rs.70,000/-. Accordingly Mr. Roy submitted that a lesser quantum of compensation has been awarded by the tribunal.

Mr. Rajesh Singh, learned counsel is appearing on behalf of the respondent/Insurance Company.

I have heard counsel appearing on behalf of the parties. In view of the law laid down in ***Smt. Sarala Verma & Ors. –vs.- Delhi Transport Corporation & Anr.***, reported in ***(2009) 6 SCC 121*** and in ***National Insurance Company Limited –vs.- Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680*** and also in a claim case of 2013 under section 166 of the Motor Vehicles Act, 1988 a sum of Rs.4000/- per month does not appear to be exorbitant. This Court is also of the view that addition of 40%, as prayed for by the appellants/claimants, on account of ‘Future Prospect’ on the income of the deceased, i.e. Rs.70,000/- instead of Rs.9,500/-, is justified. The deduction under the head of ‘Personal Expenses’ should have been $1/3^{rd}$ instead of $1/4^{th}$ as there are three dependent claimants.

The impugned award is thus modified and the appellants/claimants are found entitled to a total sum of Rs.8,31,600/- together with interest therein @6% per annum from the date of filing of the claim application till its realisation.

Taking the monthly income of the deceased to Rs.4000/- the annual income of the deceased comes to Rs.48,000/- and by adding 40% future prospect and deducting 1/3rd as personal expenses, it comes to Rs.44,800/- on which multiplier 17 will have to be applied. The net pecuniary compensation comes to Rs.7,61,600/-. The appellants/ claimants also entitled to general damages of Rs.70,000/- on account of loss of consortium, loss of estate and funeral expenses. The gross compensation comes to Rs.8,31,600/- together with interest thereon @6% per annum from the date of filing of the claim application till receipt of the same.

The appellants/claimants received the entire awarded amount of Rs.4,68,500/- along with interest. The balance sum of Rs.3,63,100/- would have become payable to the appellants/claimants together with interest @6% per annum on and from date of filing of the claim application.

The counsel appearing on behalf of the appellants/claimants shall forward the bank account details of the appellants/claimants to the Insurance Company within a period of two weeks from date.

The Insurance Company is directed to pay Rs.3,63,100/- together with interest @6% per annum on and from date of filing of the claim application to the appellants'/claimants' bank accounts directly within a period of four weeks from date, in the same manner and proportion as decided by the tribunal.

The appeal is disposed of. Accordingly the connected application is also disposed of.

There shall be no order as to costs.

The department is directed to send down the LCR.

Photostat certified copy of this order, if applied for, be furnished upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)