29.07.2021
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(Via Video Conference)

F.M.A. 846 of 2018

Imtiyaz Ahmed alias Imtiyaz Ahmed Gilkar
Vs.
United India Insurance Co. Ltd. & ors.

Mr. Ashique Mondal ...For the Appellant/claimant.

Mr. Sanjay Paul ... For the respondents/Insurance Co.

The appeal is directed against the judgement and order dated 24th April, 2017 passed by the learned Judge, Motor Accident Claims Tribunal, XI Bench, City Civil Court at Calcutta in M.A.C. Case No.28 of 2014.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Learned Advocate for the appellant/ claimant submits that the learned Tribunal committed error in law while assessing the monthly income of the claimant/appellant as Rs.3,000/- being the notional income instead of Rs.8,500/- as claimed. It is further argued by the learned Advocate for the appellant/ claimant that the avocation of the claimant/appellant has been proved with cogent evidence. Nevertheless, since the accident occurred in the year 2013, in accordance with the practice of this Hon'ble Court, the learned Tribunal ought to have assessed the monthly income of the appellant/claimant as Rs.4,000/- notionally instead of Rs.3,000/-.

Next, it is also argued by the learned Advocate for the appellant/claimant that the learned Tribunal committed error in law by not granting 40% additional income towards future prospects considering the ratio as decided in **National Insurance Company Limited Vs. Pranay Sethi & ors.,** reported in **(2017) 16 SCC 680** since the deceased was 27 years old self-employed person. Learned Tribunal, it is argued, has also erred in granting only Rs.2,500/- under the head of non-pecuniary damages.

In turn, learned Advocate for the respondent/ Insurance Company submits that the award passed by the learned Tribunal is absolutely just and there is no scope of any further enhancement of the award.

Multiplier, medical expenses and percentage of disability are not disputed.

Be that as it may, considering the rival submissions of the parties as well as judgement of Hon'ble Apex Court as well as general practice of our High Court, above award passed by the Tribunal is modified and recalculated as follows:

Particulars	Amount (Rs.)
Monthly income	Rs. 4,000/-
Annual Income (X 12)	Rs.48,000/-
40% additional income towards future prospects	Rs.19,200/-
Annual income	Rs.67,200/-
Multiplier (17)	Rs.11,42,400/-
Disability 45%	Rs.5,14,080/-
Medical expenses	Rs.60,000/-
Non-pecuniary damages	Rs.50,000/-
Total	Rs.6,24,080/-

Since the entire amount of Rs.3,37,900/- together with interest as has been awarded by the learned Tribunal has been paid by the Insurance Company, the differential amount which comes to Rs.2,86,180/- together with 6% interest from the date of claim application till payment shall be paid to the appellant/ claimant within 30 days of receipt of particulars of his bank account details to be supplied by his learned Counsel to the learned Counsel for the Insurance Company.

It is made clear that the payment shall be made by the Insurance Company by way of NEFT/RTGS in the bank account of the appellant/claimant directly.

With the aforesaid direction, the instant appeal shall stand disposed of.

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.

(Shekhar B. Saraf, J.)