

28.07.2021

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(via Video Conference)

FMA 621 of 2009

In the matter of: Ranjit Maliik & Anr.
... appellants

Mr. Krishanu Banik

...for the appellants

Mr. S. N. Ganguly

...for the respondent/insurance company

The appeal is directed against the judgment and award dated 1st September, 2008 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Hooghly in M.A.C Case No.32 of 2008.

The facts of the case are not in dispute.

The claims was filed under Section 163A of the M. V. Act, 1988. Counsel for the appellants/ claimants submit that the Tribunal committed error in law while not assessing the annual income of the deceased as Rs.36,000/- i.e. Rs.3,000/-X 12 months.

Mr. Banik further submits that the Tribunal also committed error in law by not applying the multiplier of 13 and further not assessing the general damages as Rs.4,500/- while passing the impugned award.

In view of the law as it stands now, after the judgments delivered by the Hon'ble Supreme Court in the case Laxmi Devi Vs. Md. Tabbar & Anr., reported in 2008 ACJ 1488 wherein it has been held that an unskilled labourer can easily earn Rs.100/- per day. That the accident in the said reported case, took place in the year of 2004 and the accident in

the present case took place in the year 2007. The impugned award is thus modified as stated hereinafter.

Particulars	Amount (Rs.)
Monthly Income	3,000/-
Annual Income (Rs.3,000x12)	36,000/-
Deduction 1/3 rd on account of Own personal living expenses	24,000/-
Multiplier 13 (24,000x13)	3,12,000/-
General damages	4,500/-
Total	3,16,500/-

Mr. Banik acknowledges that his clients have already received a sum of Rs.1,32,000/- together with interest that has been awarded by the Court below and it has been paid by the insurance company, the differential amount which comes to Rs.1,84,500/- together with 5% interest from date of 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 receipt of the particulars of their bank accounts to be supplied by their counsel to the counsel of 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, is 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.)