

19.07.2021

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(Via Video Conference)
F.M.A. 825 of 2018

Rongina Bibi & ors.

Vs.

The Branch Manager HDFC ERGO G.I. Co. Ltd. & ors.

Mr. Krishanu Banik ...For the Appellants/claimants

Mr. Rajesh Singh

...For the Respondent no.1/Insurance Co.

The appeal is directed against the judgment and order dated May 22, 2017 passed by learned Judge, Motor Accident Claims Tribunal cum Additional District Judge (redesignated) Court, Bankura in M.A.C Case No. 43 of 2016/66 of 2014, for the death of 'Sk. Ujjwal' in a road accident dated April 08, 2014.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the monthly income of Rs.3,000/- of the victim, considered by the learned Judge was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Lastly, claimants plead that they were erroneously given only Rs.65,000/- instead of Rs.70,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, Mr. Singh, the learned Advocate appearing on behalf of the insurance company argues

that the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgements of **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, reported in **(2009) 6 SCC 121** and **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.**, reported in **(2017) 16 SCC 680** and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. For the year 2014, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.4,000/- per month does not appear to be exorbitant. Appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.70,000/- under collective heads of general damages. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	Amount (Rs.)
Monthly Income	Rs.4,000/-
Annual Income	Rs.48,000/-
Less: 1/3 rd for personal expenses (Rs.16,000/-)	Rs.32,000/-
Add: 40% future prospects (Rs.12,800/-)	Rs.44,800/-
Multiplier '18'	Rs.8,06,400/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.8,76,400/-
LESS – awarded by Tribunal and paid by insurer	<u>Rs.4,97,000/-</u>
BALANCE (enhancement)	<u>Rs.3,79,400/-</u>

The claimants acknowledge receipt of the awarded amount of Rs.4,97,000/- along with interest. Accordingly, the balance enhanced sum of Rs.3,79,400/- would become payable to the appellants by the insurance company, 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. Learned Advocate for the Appellants will forward the bank account details of the said appellant within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made only to the mother of the deceased, being appellant no. 1, as 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.)