S/L 11
08.9.2021
Court No.26
SD

FMA 833 of 2018
(Via Video Conference)

Smt. Manju Bouri & Ors.
Vs.
National Insurance Co. Ltd. & Anr.

Mr. Jayanta Kumar Mandal
... for the Appellants/Claimants.

Mr. Sanjay Paul
... for the Respondent/Insurance Co.

This appeal is directed against the judgment and award dated July 29, 2017 passed by the learned Judge, Motor Accident Claims Tribunal-cum-Additional District Judge, Redesignated Court, Bankura in M.A.C. Case No.30 of 2016/109 of 2015.

Facts of the case are not in dispute. Counsel for the appellants/claimants submits that the Tribunal committed error in law while not granting 40% additional amount towards future prospect since the deceased was 38 years old self-employed person. Mr. Mandal further submits that the Tribunal committed error in law while assessing monthly income of the deceased as Rs.3000/- instead of Rs.5,500/- by ignoring the uncontroverted oral evidence as adduced by the widow of the deceased.

Mr. Mandal relies on the judgments of Hon'ble Apex Court in the case of ***Smt. Sarala Verma & Ors. vs. Delhi Transport Corporation & Anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Limited vs. Pranay Sethi & Ors.*** reported in ***(2017) 16 SCC 680***.

In reply, Mr. Sanjay Paul, counsel appearing on behalf of the insurance company submitted that the Tribunal rightly assessed the income of Rs.3000/- per month notionally in absence of documentary evidence and there is no scope of interference by this Hon'ble Court at this stage. Mr. Paul further submits that the Tribunal committed serious error in law while granting Rs.1,75,000/- instead of Rs.70,000/- towards general damages under different heads.

I have heard the counsel appearing on behalf of the parties and after considering the judgments relied upon by counsel and also following the practice of this Court on the point of monthly income, I find some substance in the submission of the appellants. For the year 2015, in a claim under Section 166 of the Act 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. The appellants are also entitled to get 40% additional amount towards future prospect as well as Rs.70,000/- instead of Rs.1,75,000/- towards general damages.

Accordingly, the impugned award is required to be modified in the following manner:-

Particulars	Amount (Rs.)
Monthly Income	5,000.00
Annual Income (Rs.5000/- x 12)	60,000.00
After 1/4th personal expenses	15,000.00
	45,000.00
Add 40% future prospect	(+) 18,000.00
	63,000.00
Multiplier 15 (38 years old)	9,45,000.00
General damages	(+) 70,000.00
Total compensation	10,15,000.00

Mr. Mandal acknowledges that his clients have already received the entire compensation of Rs.5,83,000/- together with interest and therefore, the balance amount of Rs.4,32,000/- would become payable to the claimants by the respondent/insurance company together with interest @ 6% per annum on the aforesaid differential awarded amount from date of filing of the claim application till the date of payment in the same manner as indicated in the award within 45 days from the date of receipt of the particulars of the bank account details of the claimants. Counsel for the claimants will forward the bank account details of the claimants within a fortnight from date to the counsel for the insurance company.

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.)