02.08.2021
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(Via Video Conference)

F.M.A. 1528 of 2018

I.A. No. CAN 1 of 2020 (old No. CAN 2893 of 2020)

Smt. Lovely Gain Paul & ors.
Vs.
The General Manager, The Shriram General Insurance Co. Ltd. & anr.

Mr. Subir Banerjee
...For the Appellants/claimants

Mr. Rajesh Singh
... For the respondent/Insurance Co.

This appeal is directed against the judgement and order dated July 19, 2017 passed by the Learned Judge, Motor Accident Claims Tribunal and Additional District & Sessions Judge, Fast Track Court-1, Raiganj, Uttar Dinapur in M.A.C. Case No.23 of 2015 on a claim under Section 166 of Motor Vehicle Act, 1988 for the death of one 32 years old 'Ananta Kumar Paul', in a road accident dated December 9, 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'. The claimants also submit that they were erroneously given only Rs.10,000/- instead of Rs.70,000/- under the full component of 'general damages'. Lastly, the claimants plead that the learned

Judge erred in not granting interest on the compensation amount from the date of filing of claim application. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the learned Advocate representing the Insurance Company argues that in the facts and circumstances of the case, 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. The appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased and also Rs.70,000/- under collective heads of general damages. It is now well settled that the compensation amount should carry interest from the date of filing of claim application.

The appellants, however, admit that considering the age of the deceased, the correct multiplier in the instant case should be '16' and not '17' as applied by the learned Judge. In addition, there has been an error in the percentage of deduction of 'personal expenses' as well. Such deduction should have been 1/3rd of the income of the victim. The learned Court below wrongfully deducted only 1/4th from the deceased's income.

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 1/3rd for personal expenses (Rs.16,000/-)	Rs.32,000/-
Add 40% future prospect (Rs.12,800/-)	Rs.44,800/-
Multiplier '16'	Rs.7,16,800/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.7,86,800/-
LESS – awarded by Tribunal and paid by insurer	Rs.4,69,000/-
BALANCE (enhancement)	Rs.3,17,800/-

The claimants acknowledge receipt of the awarded amount of Rs.4,69,000/- in terms of the direction of the learned tribunal. Accordingly, the balance enhanced sum of Rs.3,17,800/- would become payable to the appellants by the Insurance Company together with interest assessed at the rate of 6% 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 particulars of the appellants. If it is found that the claimants did not receive interest as directed hereinabove on the already awarded and paid amount of Rs.4,69,000/-, the insurer shall pay interest on the said amount at the same rate of 6% per annum from the date of filing of claim application till the date of payment. Learned Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made in the proportion 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.)