

Ct. No. 26
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F.M.A. 2532 of 2015
(Via Video Conference)
Alpana Maity & Anr.
Vs.
National Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee **...For the Appellants/Claimants**

Mr. Parimal Kumar Pahari
Mr. Rajesh Singh **...For the Respondent/Insurance Co.**

The appeal is directed against the judgment and award dated October 11, 2012 passed by the learned Judge, Motor Accident Claims Tribunal, Special Court, Paschim Medinipur, in M.A.C. Case No. 507 of 2009.

The facts of the case are not in dispute.

The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988. The Tribunal has not considered the future prospect of the deceased. The Tribunal further erred in law and in fact in applying the multiplier of 13 instead of 18. Further it appears that towards general damages, the Tribunal has awarded only a sum of Rs.4,500/- instead of Rs.30,000/-.

The learned Counsel for the appellants/claimants and the learned Counsel for the Insurance Company submit that the claimants are entitled to get compensation in view of the law as laid down in the judgments delivered by the Hon'ble Supreme Court in the cases of *Smt. Sarala 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.

Considering the judgments of *Smt. Sarla Verma & Ors. (Supra)* and *Pranay Sethi & Ors. (Supra)*, the impugned

award is modified and recalculated in the manner referred hereinafter:-

Monthly Income	Rs. 9,500/-
Add: Future Prospect 40%	Rs. 3,800/-
Annual Income (Rs.13,300/- X 12)	Rs. 1,59,600/-
Less: 50% for personal expenses	Rs. 79,800/-
Multiplier '18' – (Rs.79,800 X 18)	Rs.14,36,400/-
Add 'General Damages'	Rs. 30,000/-
TOTAL Principal Compensation	Rs.14,66,400/-
LESS – awarded amount already paid	<u>Rs. 7,45,500/-</u>
Enhanced Principal Amount	<u>Rs. 7,20,900/-</u>

The claimants acknowledge receipt of the awarded amount of Rs.7,45,500/- in terms of the direction of the Tribunal.

Accordingly, the balance enhanced sum of Rs.7,20,900/- would become payable to the appellants/claimants 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. If it is found that the claimants did not receive any interest on the awarded sum already paid, the Insurance Company shall pay interest on the said amount at the same rate of 6 per cent per annum as directed above, on and from the date of filing of claim petition till the date of payment.

Learned Counsel for the appellants will forward bank account details of the appellants within a fortnight from date to the learned Counsel for the Insurance Company. The payment shall be made in the same manner and proportion as

decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

There shall be no further order as to costs.

In view of 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.

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.)