04.10.2021
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F.M.A. 1230 of 2007
I.A. CAN 3 of 2012 (old No. CAN 2807 of 2012)
Via Video Conference)

The National Insurance Co. Ltd.
Vs.
Asha Das & ors.

C.O.T. 26 of 2008
Smt. Asha Das & anr.
Vs.
The National Insurance Co. Ltd. & anr.

Mr. M. P. Chakraborty ...For the appellant/insurance Co.
Mr. Amit Ranjan Roy
... For the respondents/claimants/cross objector

This appeal is directed against the judgement and award dated August 31, 2006 passed by the learned Judge, Motor Accident Claims Tribunal, 1st Court, Asansol in M.A.C. Case No.190 of 2005 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 20 years old bachelor 'Bapi Das' in a vehicular accident dated 31.05.2005.

Mr. M. P. Chakraborty, learned Counsel appearing on behalf of the appellant/insurance company submits that the learned Tribunal committed error in assessing total amount of compensation of Rs.2,50,000/- instead of Rs.1,50,000/- without any basis.

Mr. Chakraborty also submits that in view of the interim order passed in appeal, the appellant/insurance company had deposited Rs.1,00,000/- before the learned Executing Court and also deposited a further sum of Rs.1,00,000/- before the learned Registrar General of this Hon'ble Court.

Mr. Amit Ranjan Roy, learned Advocate appearing on behalf of the claimants/respondents opposes the submissions of the appellant/insurance company and submits that one cross objection being COT 26 of 2008 has been filed against the selfsame award passed by the learned Tribunal.

Learned Advocate for the claimants/respondents has challenged the quantum of compensation on the ground that learned Tribunal erred in granting the total compensation amount of Rs.2,50,000/- only without any interest. It is submitted on behalf of the claimants that the learned Tribunal erred in law in not considering the monthly income of Rs.4,200/- of the deceased. Further, the claimants submit that considering the age of the deceased as 20 years, as it is appearing from the post mortem report being exhibit 4, the appropriate multiplier in the instant case should have been 18. Lastly, the claimants/respondents also plead that the claimants are entitled to get future prospect on the income of the deceased along with full components of Rs.30,000/- under the collective heads of general damages. Accordingly, it was argued that lesser quantum of compensation has been awarded by the learned Tribunal. In support of his case, Mr. Roy has relied upon the judgement of the Hon'ble Supreme Court in the case of **Smt. Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.,** reported in **(2009) 6 SCC 121** and in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi & ors.,** reported in **(2017) 16 SCC 680** and also on the precedence of this Court on the point of monthly income, I find substance in the arguments of the claimants/respondent/cross objectors. For the year 2005, in a claim under Section 166 of the Motor Vehicles Act, 1988 an amount of Rs.3,000/- per month does not appear to be exorbitant. The claimants are justified in praying 40% addition on account of future prospect on the income of the deceased. The learned Judge should have considered the age of the deceased as 20 years in view of the post mortem report and deducted 1/2 on account of personal expenses from the income of the deceased. The appropriate multiplier should also be 18 purchase factor and the claimants are entitled to get general damages of Rs.30,000/- for the death of their bachelor son. The claimants are also entitled to get interest on the awarded sum of Rs.2,50,000/- from the date of filing of the claim application till the date of respective deposits, at the rate of 6% per annum.

Accordingly, the award passed by the learned Tribunal is modified and recalculated in the following manner :-

Particulars	Amount
Monthly income	Rs.3,000/-
Yearly income (Rs.3,000/- p.m. X 12)	Rs.36,000/-
Less : Deduction 1/2 personal expenses	Rs.18,000/-
	Rs.18,000
Add : 40% future prospect	Rs.7,200/-
	Rs.25,200/-
Multiplier ‘18’ (Rs.25,200/- X 18)	Rs.4,53,600/-
Add : General damages	Rs.30,000/-
	Rs.4,83,600/-
Less : Award amount	Rs.2,50,000/-
Enhanced amount of compensation	Rs.2,33,600/-

It is submitted that the claimants have earlier received Rs.50,000/- in a proceeding under Section 140 of the Motor Vehicles Act, 1988.

Mr. Roy acknowledges that the claimant no.1, mother of the deceased, has further received a sum of Rs.1,00,000/- from the learned Tribunal in terms of the order passed in the present appeal. As stated earlier a sum of Rs.1,00,000/- is lying deposited in this Court.

Accordingly, the balance enhanced sum of Rs.2,33,600/- would become payable to the respondent/ claimant/cross objector no.1, mother of the deceased by the appellant/insurance company together with interest assessed at the rate of 6% per annum on and from the date of filing of claim application till the date of payment.

The claimant no.1 being the mother of the deceased is also given liberty to apply before the Registrar General of this Court for withdrawal of the deposited amount of Rs.1,00,000/- along with all accrued interest. On such application for withdrawal being made, the Registrar General shall transmit the entire deposited amount along with accrued interest thereon directly to the bank account of the claimant/respondent no.1 as expeditiously as possible preferably within four weeks from the date of receipt of the bank account details after verifying the veracity and identity of the claimant/respondent no.1.

Accordingly, the appellant/insurance company is further directed to pay the differential amount of

Rs.2,33,600/- to the claimant/respondent no.1 together with interest assessed at the rate of 6% per annum till the date of payment. Insurance company is also directed to pay the interest on the awarded sum of Rs.2,50,000/- at the same rate of interest, that is, 6% per annum from the date of filing of the claim application till date of respective deposits within a period of 45 days from the date of receipt of the bank account particulars of the claimant. The entire payment is to be made to the claimant no.1 being the mother of the deceased only. Learned Advocate for the claimants will forward the bank account details of the claimant no. 1 within a three weeks from date to the learned Registrar General of this Court and also Counsel for the appellant/insurance company

With the aforesaid directions, the instant appeal as well as cross objection is disposed of. There shall be no order as to costs.

In view of the disposal of this appeal, connected application, if any, is also disposed of. The concerned Department is directed to tag the cross objection and application, if any, with the main appeal.

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.)