28.07.2021
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(Via Video Conference)

F.M.A. 2209 of 2016

I.A. CAN 1 of 2018 (old No. CAN 2577 of 2018)

Iyarunnechha Sekh & ors.
Vs.
The Oriental Insurance Co. Ltd. & anr.

Mr. Amit Ranjan Roy ...For the Appellants/claimants

Mr. Sanjay Pal ... For the respondent/Insurance Co.

Being dissatisfied with the award and judgement dated 1st August, 2013 passed by the learned Member, Motor Accident Claims Tribunal and Additional District Judge, Nadia in M.A.C. Case No.217 of 2012, the appellants filed the instant appeal before this Hon'ble Court on the ground of inadequate compensation granted by the learned Tribunal in connection with death of Jakir Sekh in a road traffic accident occurred on 11th October, 2011.

Mr. Amit Ranjan Roy, learned Counsel appearing on behalf of the appellants submits that the learned Tribunal committed error in law while assessing the monthly income of the deceased at Rs.2,000/- instead of Rs.4,500/- on the basis of uncontroverted oral evidence as adduced by the widow of the deceased.

Mr. Roy further submits that the learned Tribunal also committed error in law while not granting 25%

additional income towards future prospect since the deceased was 40 years old self employed person.

Mr. Roy also submits that the learned Tribunal committed error in law while granting Rs.9,000/- instead of Rs.70,000/- towards general damages.

Mr. Sanjoy Pal, learned Advocate appearing on behalf of the Insurance Company submitted that the learned Tribunal rightly assessed the income of Rs.2,000/- per month notionally in absence of documentary evidence and there is no scope of interference by this Hon'ble Court at this stage.

Heard the submissions of the parties and considered the judgements of the Hon'ble Apex Court in the case of **Smt. Sarla 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** 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 2011, in a claim under Section 166 of the Act, 1988 an amount of Rs.4,000/- per month does not appear to be exorbitant. The appellants are also entitled to get 25% additional amount towards 'future prospect' as well as Rs.70,000/- towards 'general damages'. Accordingly, the impugned award is required to be modified in the following manner:

Particulars	**Amount (Rs.)**
Monthly Income	Rs.4,000/-
Annual Income	Rs.48,000/-
Future prospect 25%	Rs.12,000/-
Total income	Rs.60,000/-
1/3rd deduction	Rs.20,000/-
Loss of annual dependency	Rs.40,000/-
Age 40 – multiplier "15"	Rs.6,00,000/-
General damages	Rs.70,000/-
Total compensation	Rs.6,70,000/-

Mr. Roy acknowledges that his clients have already received the compensation of Rs.2,49,000/-. Therefore, the Insurance Company is directed to pay the balance sum of Rs.4,21,000/- together with interest assessed at the rate of 6% per annum on and from the date of filing of the claim application till the date of payment within 45 days from the date of receipt of the bank particulars of the claimants by the Insurance Company in the same proportion and manner as indicated in the award.

Mr. Roy further acknowledges that his clients have received only awarded sum of Rs.2,49,000/- but no amount towards interest was deposited by the Insurance Company.

In reply, Mr. Pal submits that he has no instruction regarding non-deposit of interest as granted by the learned Tribunal.

Be that as it may, the Insurance Company is directed to pay the interest @ 6% per annum on the awarded sum of Rs.2,49,000/- from the date of claim application till date of deposit of such amount before the Tribunal, if not paid earlier.

It is made clear that all the payments shall be made through NEFT/RTGS to the bank accounts of the claimants and for such purpose. The learned Advocate for the claimants shall furnish bank particulars of the claimants to the learned Advocate for the Insurance Company within two weeks.

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.)