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(Via Video Conference)

F.M.A. 128 OF 2021

Jarina Bibi

Vs.

National Insurance Co. Ltd.,
Haldia Divisional Office & Anr.

Mr. Pingal Bhattacharyya
Ms. Poonam Keswani.

...For the Appellant/
Claimant.

Mr. Sanjay Paul

...For the Respondent /
Insurance Co.

This appeal is directed against the judgment and award dated November 4, 2019 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track, 2nd Court, Tamluk, Purba Medinipur in M.A.C Case No. 41 of 2016/CIS Regn No.162/2016, in a claim under section 166 of the Motor Vehicles Act, 1988 for death of one "Anisur Rahaman Mir" in a road accident dated February 28, 2016.

Various points have been raised by the appellant/claimant in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellant/claimant that the monthly income of Rs.4,000/- of the victim as considered by the learned Judge, was inadequate. It is also submitted by the appellant/claimant that the tribunal committed an error in law by not granting 10% additional amount towards future prospect since the deceased was 54 years old self-employed person.

In reply Mr. Paul, learned advocate for the respondent/insurance company submits that the award passed by the tribunal is absolutely just and there is no scope of interference and/or modification of the award.

Considering the decisions in ***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 appellant/claimant. For the year 2016, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. The appellant/claimant is justified in praying for 10% additional amount towards future prospect since the deceased was 54 years old self-employed person.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Monthly Income	Rs.5,000/-
Add 10% future prospect	Rs.500/-
Total monthly income	Rs.5,500/-
Annual income	Rs.66,000/-
After 1/3rd deduction for personal expenses	Rs.44,000/-
Multiplier '11'	Rs.4,84,000/-
Collective General damages	Rs.70,000/-
Total Compensation	Rs.5,54,000/-
Less – awarded by the tribunal and paid by the insurer	Rs.4,22,000/-
Balance (enhancement)	Rs.1,32,000/-

The appellant/claimant acknowledges receipt of the awarded amount of Rs.4,22,000/- along with interest. Accordingly, the balance enhanced sum of Rs.1,32,000/- would become payable to the appellant/claimant by the insurance company, together with interest assessed @ 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 account particulars of the appellant/claimant.

Advocate for the appellant/claimant will forward the bank account details of the appellant/claimant to the advocate for the insurance company within a period of fortnight from date. The payment shall be made to the appellant's/claimant's bank account directly through electronic fund transfer.

With the aforesaid directions the instant appeal is disposed of.

In view of the disposal of the appeal, connected applications, if any, are also disposed of. The department concerned 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.

(Shekhar B. Saraf, J.)