

Ct. No. 26  
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**05.10  
2021**

**F.M.A. 1443 of 2014**  
**Mst. Riziya Bibi @ Rizia Bibi & Ors.**  
**Vs.**  
**National Insurance Co. Ltd. & Anr.**  
**( Via Video Conference )**

**Mr. Krishanu Banik** ...For the Appellants /Claimants

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

The appeal is directed against the judgment and award dated July 15, 2011 passed by the learned Judge, 2<sup>nd</sup> Motor Accident Claims Tribunal, Tamruk, Purba Medinipur, in M.A.C. Case No. 84/80 of 2009/2008, in a claim under Section 166 of the Motor Vehicles Act, 1988 on various points. Admittedly, the accident took place on December 31, 2007 caused by the offending vehicle (Bus) bearing registration No. @B-29/1576 with a valid insurance policy.

Mr. Krishanu Banik, learned Counsel for the appellants submits that the learned Tribunal Judge was wrong in not applying the multiplier of 7 instead and in place of 5 by considering the age of the victim/deceased as 65 years and further in not assessing the general damages of Rs.70,000/- as per the decision of the Hon'ble Supreme Court (Constitutional Bench consisting of the five Hon'ble Justices) in the case of *National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680 while passing the impugned award. It is further submitted by Mr. Banik that the learned Tribunal Judge had also committed an error in not deducting 1/4<sup>th</sup> on account of personal living expenses as per the aforesaid decision of the Hon'ble Apex Court.

Mr. Parimal Kumar Pahari, learned Counsel for the respondent/Insurance Company has vehemently opposed the submission and contention of the learned Counsel for the

appellants. He submits that the learned Tribunal has rightly passed the impugned award since the same is quite justified and reasonable.

After considering the submission and rival contention of the learned Counsel for the contesting parties and in view of the law as it stands now, after the decision pronounced by the Hon'ble Apex Court in case of *National Insurance Company Limited -Vs.- Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680 and in the case of *Smt. Sarala Verma & Ors. – Vs.- Delhi Transport Corporation & Anr.*, reported in (2009) 6 SCC 121 the submissions and points made by Mr. Banik are accepted. Accordingly, the impugned award is modified and recalculated as stated hereinafter.

|                                         |                              |
|-----------------------------------------|------------------------------|
| <b>Monthly Income</b>                   | <b>Rs. 3,000/-</b>           |
| <b>Annual Income (3,000 X 12)</b>       | <b>Rs. 36,000/-</b>          |
| <b>Less: 1/4<sup>th</sup> deduction</b> | <b>Rs. 9,000/-</b>           |
| <b>After deduction the figure comes</b> | <b>Rs. 27,000/-</b>          |
| <b>Use Multiplier (7) (27,000 X 7)</b>  | <b>Rs. 1,89,000/-</b>        |
| <b>Add: General Damages</b>             | <b><u>Rs. 70,000/-</u></b>   |
| <b>Total Compensation</b>               | <b><u>Rs. 2,59,000/-</u></b> |

Mr. Banik acknowledges that his clients have already received a sum of Rs. 1,29,500/- together with interest that has been awarded by the learned Court below and paid by the Insurance Company. Therefore, the differential amount of Rs. 1,29,500/- together with 6% interest on and from the date of filing the claim petition till the payment, shall be paid to the claimants by the respondent Insurance Company in the same manner and proportion as decided by the Court below within 45 days from the date of receipt of the particulars of their bank account details to be

supplied by their learned Counsel to the learned Counsel for the Insurance Company.

It is made clear that the payment shall be made directly through NEFT/RTGS to the bank accounts of the claimants/appellants.

With the aforesaid directions, the instant appeal being F.M.A. 1443 of 2014 shall stand disposed of.

In view of disposal of the appeal, all connected applications, if any, are also disposed of. The concerned Department is directed to trace out the applications and tag with this appeal.

LCR, if any may be returned back to the Court below.

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.* )**