

28.07.2021

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(Via Video Conference)
F.M.A. 273 of 2013

Sri Shankar Hembram & ors.
Vs.
Oriental Insurance Company Ltd. & anr.

Mr. Krishanu Banik

...For the Appellants/claimants

Mr. Parimal Kumar Pahari

... For the respondent No.1/Insurance Co.

This appeal is directed against the judgement and order dated 27th day of March, 2008 passed by the Learned Judge, Motor Accident Claims Tribunal, 2nd Court, Bankura in M.A.C. Case No.107 of 2007/78 of 2007.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Mr. Banik, learned Advocate for the appellants/ claimants submit that the learned Tribunal committed an error in not assessing the monthly income of the deceased at Rs.3,000/-.

Mr. Banik further submits that the learned Tribunal also committed error in law by not assessing the future prospect of the deceased at 25% and not applying the multiplier of '13' and further not assessing the general damages as Rs.70,000/- while passing the impugned award. He also submits that the learned Tribunal has not assessed 1/3rd deduction on account of personal living expenses of the deceased.

In view of the law as it stands now after the judgements delivered by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & ors.**, reported in **(2017) 16 SCC 680**, the claimants are entitled to 25% additional income as 'future prospect' of the deceased.

This Court is also inclined to accept the submissions made on behalf of the appellants on the above points. The impugned award is thus modified and recalculated in the manner referred hereinafter.

Particulars	Amount (Rs.)
Monthly Income	Rs.3,000/-
Annual Income	Rs.36,000/-
25% future prospect	<u>Rs.9,000/-</u> Rs.45,000/-
After 1/3 rd deduction	Rs.30,000/-
Use of Multiplier '13' (Rs.30,000/- X 13)	Rs.3,90,000/-
'General Damages'	<u>Rs.70,000/-</u>
TOTAL	<u>Rs.4,60,000/-</u>

Mr. Banik acknowledges that his clients have already received a sum of Rs.90,000/- together with interest that has been awarded by the learned Court below and which has been paid by the Insurance Company. Accordingly, the differential amount comes to Rs.3,70,000/- together with 6% interest on and from the date of filing of the claim petition (26.6.2007) till payment

which shall be paid to the claimants by the Insurance Company in the same manner and proportion as indicated in the award within a period of 45 days from the date of receipt of the bank particulars of the appellants. Learned Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Advocate for the Insurance Company.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as ordered by the learned Court below.

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.)