

08.07.2021

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F.M.A. 2015 of 2016

(Via Video Conference)

Mala Paul @ Jaybala Paul

Vs.

The National Insurance Co. Ltd. & anr.

Mr. Amit Ranjan Roy ...For the Appellant/claimant

Mr. Afroze Alam

... For the respondent/Insurance Co. Ltd.

The appeal has been filed against the judgement and award dated June 26, 2014 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 2nd Court, Asansol, Burdwan in M.A.C. Case No.64 of 2009, on a claim under Section 166 of the Motor Vehicles Act, 1988.

Two points have been mainly raised by the appellant/claimant in the appeal. Mr. Amit Ranjan Roy, learned Counsel appearing on behalf of the appellant/claimant submits that the claimant was not granted any amount under future prospect and multiplier not used properly in respect of the age of the victim, lastly, the appellant was granted only Rs.4,500/- as general damages against her lawful entitlement of Rs.30,000/-. Accordingly, Mr. Roy submits that lesser quantum of compensation has been awarded by the Tribunal.

Mr. Afroze Alam, learned Counsel appearing on behalf of the respondent no.1/Insurance Company vividly opposes the submission of the appellant and argues that

the award passed by the learned Tribunal is justified and there is no scope of any further enhancement of the award.

The appellant/claimant submits that the 23 years old victim was earning Rs.1,62,000/- per year as a permanent employee of SAIL, ISP, Chasnala Colliery, one senior manager of the colliery deposed to that effect and confirmed the salary of the deceased. The appellant/claimant submits that the multiplier should be adopted 18 instead of 15 but deduction should be half where the deceased was bachelor, as considered and the claimant is also entitled to 50% future prospect on the income of the deceased in view of the law as it stands now after the judgement delivered by 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 **National Insurance Company Ltd. Vs. Pranay Sethi & ors.**, reported in **(2017) 16 SCC 680**.

This Court is also of the view that addition of 50% as prayed for by the appellant on account of future prospect on the income of the deceased, the general damages in the instant case should be Rs.30,000/- instead of Rs.4,500/- as granted by the Tribunal.

The award is therefore modified and reassessed. Upon taking yearly income of the victim to be Rs.1,62,000/- and adding 50% on account of future prospects, the total notional income comes to

Rs.2,43,000/- per year. After annualizing such amount and deducting half (victim was bachelor at the time of death) on account of personal expenses, it is the figure of Rs.1,21,500/- on which the multiplier 18 will however be applied. The net pecuniary compensation comes to Rs.21,87,000/- after adding a further sum of Rs.30,000/- on account of general damages, the gross compensation comes to Rs.22,17,000/- together with interest thereon at the rate of 6% per annum from the date of lodging of the claim till the date of receipt of the amount.

The claimant acknowledges receipt of a sum of the entire awarded amount of Rs.12,19,000/- along with interest. The balance sum of Rs.9,97,500/- would become payable to the appellant together with interest assessed at the rate of 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. Learned Advocate for the appellant will forward the bank account details of the appellant within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made by the Insurance Company in the same manner, decided by the Court below.

With the aforesaid directions, the instant appeal is disposed of.

In view of the disposal of this appeal, connected application, if any, is also disposed of. The concerned

department is directed to tag the application, if any, with the main appeal.

There shall be no further 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.)