Ct. No. 26

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F.M.A. 731 of 2010

With

IA No. CAN 2 of 2013 (Old No. CAN 6951 of 2013)

With

IA No. CAN 3 of 2013 (Old No. CAN 11306 of 2013)

With

IA No. CAN 4 of 2015 (Old No. CAN 11508 of 2015)

Lalima Nag & Anr.

Vs.

United India Insurance Co. Ltd. & Anr.

(Via Video Conference)

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

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

This appeal is directed against the judgment and award dated October 09, 2007 passed by the learned Judge, 11th Bench, City Civil Court, Calcutta, in M.A.C. Case No. 228 of 2005.

The facts of the case are not in dispute.

The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988. Mr. Krishanu Banik, learned Counsel for the appellants/claimants submit that the learned Tribunal committed an error in not assessing the monthly income of the deceased as Rs.13,365/- after deducting the statutory deduction of Rs.130/- from the gross income of the deceased.

Mr. Banik further submits that the learned Tribunal committed an error in law by not assessing the 'future prospect' of the deceased as 50% without considering that on the date of the accident the victim was 37 years old and working at Port Trust of India, not applying the multiplier of 15 and further not assessing the general damages as Rs.70,000/- while passing the impugned award.

In view of the law as it stands now, after the decisions pronounced by the Hon'ble Apex Court in cases of ***Smt. Sarala Verma & Ors. -Vs.- Delhi Transport Corporation & Anr.***, reported in **(2009) 6 SCC 121** and in the case of ***National***

Insurance Company Limited -Vs.- Pranay Sethi & Ors., reported in **(2017) 16 SCC 680**, the claimants are entitled to 50% additional income as 'future prospect' of the deceased. The Court is also inclined to accept the submissions made on behalf of the appellants on the above mentioned points.

Therefore, the impugned award is thus modified and recalculated as stated hereinafter :

Monthly Income	**Rs. 13,365/-**
Annual Income (13,365 X 12)	**Rs. 1,60,380/-**
Add 50% future prospects	**Rs. 80,190/-**
	Rs. 2,40,570/-
After 1/3rd deduction the figure comes (personal Expenses)	**Rs. 1,60,380/-**
Use Multiplier (15) (1,60,380 X 15)	**Rs.25,05,700/-**
Add: General Damages	**Rs. 70,000/-**
Principal Compensation	**Rs.25,75,700/-**

Mr. Banik acknowledges that his clients have already received a sum of Rs. 9,04,408/- together with interest that has been awarded by the learned Court below and paid by the Insurance Company. Therefore, the differential amount of Rs. 15,71,292/- 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. 731 of 2010 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.)