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(Via Video Conference)

F.M.A. 890 of 2013

Shibani Chattopadhyay & Anr.
Vs.
National Insurance co. Ltd. & Anr.

Mr. Jayana Kumar Mondal
...For the Appellants/ Claimants.

Mr. Samim Ahammed
Mr. Aniruddha Singh.
...For the Respondent/ Insurance Company.

The appeal is directed against the Judgment and award dated June 5, 2012 passed by the Motor Accident Claims Tribunal, Special Judge-cum-Additional District & Sessions Judge at Burdwan in MAC Case No.03 of 2010/08 of 2010 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 'Biswapati Chattopadhyay' in a vehicular accident dated November 06, 2009.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the tribunal has erroneously not considered the 'future prospect' of the deceased. The claimants further plead that the tribunal erred in granting only Rs.9,500/- under the collective heads of 'general damages'.

Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the tribunal.

Per contra, learned advocate representing the Insurance company argues that in the facts and circumstances of the case, the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgements 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***, I find substance in the arguments of the appellants/claimants. Appellants are justified in praying for 30% addition of income on account of 'future prospect'. The appellants/claimants should also be made entitled to Rs.70,000/- under collective heads of general damages. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Monthly Income	Rs.13,971/-
Annual Income	Rs.1,67,652/
Less 1/3rd for personal expenses (Rs.55,884/-)	Rs.1,11,768/-
Add 30% future prospect (Rs.33,530/-)	Rs.1,45,298/-
Multiplier '13'	Rs.18,88,874/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.19,58,874/-
LESS – awarded by Tribunal and	

paid by insurer	<u>Rs.14,62,484/-</u>
BALANCE (enhancement)	<u>Rs.4,96,390/-</u>

The appellants/claimants acknowledge receipt of the awarded amount of Rs.14,62,484/- with interest, in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.4,96,395/- would become payable to the appellants/claimants by the Insurance Company 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 appellants/claimants.

Learned advocate for the appellants/claimants will forward the bank account details of the appellants/claimants within a fortnight from date to the learned advocate for the Insurance Company. The payment shall be made to the appellants'/claimants' bank accounts directly, in the proportion as decided by the Court below.

With the above direction, the instant appeal is disposed of.

In view of disposal of this 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.

LCR, if already called for, 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.)