

27.07.2021

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(Via Video Conference)
F.M.A. 297 of 2014
I.A. No. CAN 2 of 2015 (old No. CAN 2671 of 2015)

Smt. Joba Pal & ors.
Vs.
United India Insurance Co. Ltd. & anr.

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

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

This appeal is directed against the judgement and order dated 18th day of December, 2012 passed by the Learned Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Burdwan in M.A.C. Case No.108 of 2011/53 of 2011.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. The 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.4,000/-.

Mr. Banik, learned Counsel appearing on behalf of the appellants/claimants submits that the learned Tribunal also committed error in law by not assessing the future prospect of the deceased as 25% and not applying the multiplier of 14 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 1/4th deduction on account of personal living expenses of the victim 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 appellants are entitled to 25% additional income on account of '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 as stated hereinafter:

Particulars	Amount (Rs.)
Monthly Income	Rs.4,000/-
Annual Income	Rs.48,000/-
Add: 25% future prospect	<u>Rs.12,000/-</u> Rs.60,000/-
After 1/4 th deduction (Rs.60,000 – 15,000)	Rs.45,000/-
Multiplier '14' (Rs.45,000 X 14)	Rs.6,30,000/-
Add 'General Damages'	<u>Rs. 70,000/-</u>
TOTAL	<u>Rs.7,00,000/-</u>

Mr. Banik acknowledges that his clients have already received a sum of Rs.5,21,500/- with interest that has been awarded by the learned Court below and has been paid by the Insurance Company, the differential amount which comes to Rs.1,78,500/- together with interest 6% per annum from the date of claim application till payment, shall be paid to the claimants by the

Insurance Company in the same manner 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.)