S/L 4
29.7.2021
Court No.26
SD

FMA 977 of 2013
(Via Video Conference)

Smt. Parbati Agarwal & Ors.
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee
... for the Appellants/Claimants.
Mr. M.P. Chakraborty
... for the Respondent/Insurance Co.

The instant appeal is directed against the judgment and award dated January 20, 2012 passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court, Jalpaiguri in M.A.C. case no. 45 of 2011.

The facts of the case are not in dispute.

The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988. The Tribunal has not considered the future prospect of the deceased. The Tribunal also erred in law and in fact in taking multiplier 11 instead of multiplier 13. It further appears that towards general damages, the Tribunal has awarded only a sum of Rs,9,500/- instead of Rs.70,000/-.

Counsel appearing on behalf of the appellants submits that the appellants are entitled to get compensation in view of the law as laid down in ***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***.

Considering the above award passed by the Tribunal is modified and recalculated as follows:

Particulars	Amount (Rs.)
Annual Income	Rs.1,48,300/-
Add 25% future prospect	Rs.37,075/-
	Rs.1,85,375/-
Less 1/3rd for personal expenses	Rs.61,792/-
	Rs.1,23,583/-
Multiplier (13)	Rs.16,06,579/-
Add: General Damages	Rs.70,000/-
	Rs.16,76,579/-
LESS: awarded amount already paid	Rs.10,97,033/-
Enhanced Principal Amount	Rs.5,79,546/-

Since the entire amount that has been awarded by the Tribunal has been paid by the Insurance Company, the differential amount which comes to Rs.5,79,546/- shall be paid to the appellants within 45 days of receipt of particulars of their bank accounts to be supplied by their Counsel to the Counsel for the Insurance Company.

Enhanced principal amount, i.e., Rs.5,79,546/- shall carry 6% interest per annum from the date of filing of the claim petition till the date of actual payment.

The awarded sum of the Tribunal, i.e., Rs.10,97,033/- shall also carry 6% interest per annum from the date of filing of the claim petition till the date of actual payment.

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

With the aforesaid directions, both the appeals are disposed of.

There shall be no order as to costs.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)