22 23.8.2021
Sc

(Via Video Conference)

F.M.A. 203 OF 2021
with
I.A. No. CAN 1 OF 2020
(Old No. CAN 1281 OF 2020)
with
I.A. No. CAN 2 OF 2020
(Old No. CAN 1282 OF 2020)

Ranuja Khatun & Ors.

Vs.

The New India Assurance Company Limited & Anr.

Mr. Subir Banerjee
...For the Appellants/ Claimants.

Ms. Sayanti Santra
...For the Respondent / Insurance Co.

The appeal is directed against the judgment and award dated 7th August, 2019 passed by the M.A.C. Tribunal, Additional District Judge, 2nd Court, Raiganj, Uttar Dinajpur in M.A.C. Case No. 90 of 2017 in a claim under section 166 of the M.V. Act 1988 for the death of Habibur Rahaman, aged about 40 years in a road accident on 18.04.2017.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the monthly income of Rs.3000/- of the victim as considered by the tribunal, is inadequate. It is also submitted by the appellants/claimants that they were not granted any amount under 'future prospect'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the tribunal.

Per contra, learned advocate representing the respondent/insurance company argues that the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the decisions of the Hon'ble Supreme Court in the case of ***Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.***, reported in ***(2009) 6 SCC 121***, I find substance in the arguments of the appellants/claimants. Since the accident occurred in the year 2017, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. The appellants/ claimants are justified in praying for 25% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.70,000/- under collective head of general damages in stead of Rs.1,00,000/- as awarded by the tribunal.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter:

Particulars	**Amount (Rs.)**
Monthly Income	5,000/-
Add future prospects 25%	1,250/-
	6,250/-
Annual Income (x 12)	75,000/-
Less : deduction 1/3rd	25,000/-
	50,000/-
Multiplier 14	,7,00,000/-
General Damages	70,000/-
	7,70,000/-
Less : Award of the tribunal and Paid by the insurer	4,36,000/-
Balance enhanced amount	3,34,000/-

The appellants/claimants acknowledge receipt of the awarded amount of Rs.4,36,000/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.3,34,000/- would become payable to the appellants/claimants by the insurance company together with interest assessed @6% per annum on and from the date of filing of the claim application till payment in the same manner as indicated in the award within 45 days of receipt of the particulars of their bank account details to be supplied by their advocate to the advocate for the respondent/insurance company.

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

Accordingly, with the above directions the appeal is disposed of.

In view of the disposal of the appeal, connected applications, if any, are also disposed of. The department concerned is directed to tag the applications, if any, with the main appeal.

The department is directed to send down the lower court records, if arrived, immediately.

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.

(Shekhar B. Saraf, J.)