Ct. No. 26

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**F.M.A. 2064 of 2018**

**( Via Video Conference )**

**Smt. Shakti Mohanta & Ors.**

**Vs.**

**United India Insurance Co. Ltd. & Anr.**

**Mr. Saidur Rahaman** ...**For the Appellants/Claimants**

**Ms. Sucharita Paul** ...**For the Respondent/Insurance Co.**

The instant appeal has been filed by the appellants, being aggrieved by the judgment and award dated June 30, 2017, passed by learned Judge, Motor Accident Claims Tribunal, Fast Track Court – I, Raiganj, Uttar Dinajpur, in M.A.C. Case No. 164 of 2015.

Learned Counsel appearing on behalf of the appellants submits that the income of the 29 years old victim should have been taken to be Rs. 3,300/- per month instead of Rs. 3,000/-. Accordingly, a lesser quantum of compensation has been erroneously awarded by the Tribunal.

Ms. Sucharita Paul, learned Counsel appearing on behalf of the Insurance Company submits that the Tribunal had rightly held the income of the deceased to be Rs. 3,000/- per month in absence of any documentary evidence. It is further submitted that the amount under the collective heads of general damages should have been Rs. 9,500/- as per second schedule under section 163A of the M. V. Act, 1988, instead of Rs. 10,000/- as awarded by the learned court below.

For the year 2015, in a claim under section 163A of the Motor Vehicles Act, 1988, an amount of Rs. 3,300/- per month does not appear to be exorbitant as the claimants can avail a maximum of Rs. 40,000/- per annum as per the said Act. However, as to the non-pecuniary expenses, the same shall be Rs. 9,500/-.

The impugned award is thus modified and reassessed. Taking the monthly income of the victim to be Rs. 3,300/- and after annualising such amount and deducting 1/3rd on account of personal expenses, it is the figure of Rs. 26,400/- on which the multiplier of 18 will have to be applied. The net pecuniary compensation comes to Rs.4,75,200/-. The appellants are also entitled to general damages of Rs. 9,500/- on account of loss of estate, funeral expenses and loss of consortium, taking the gross compensation to Rs. 4,84,700/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge the receipt of a sum of the entire awarded amount minus interest. The balance sum of Rs. 42,700/- would become payable to the appellants together with interest assessed at the rate of 6 per cent 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. Insurance Company is also directed to pay 6% interest on the principal amount awarded by the learned Court below, if not already disbursed, to be calculated on and from the date of lodging of the claim till the date of payment. To this effect, Counsel for the claimants shall furnish the particulars of the Bank Accounts of the claimants to the learned Counsel for the Insurance Company, within three weeks from date. The payment shall be made in the same manner and proportion as decided by the 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.)***