

(Via Video Conference)

F.M.A 1762 OF 2015
with
I.A. No. CAN 1 OF 2016
(Old No.CAN 2639 OF 2016)

Smt. Usha Si & Anr.
Vs.
Shriram General Insurance Company Ltd. & Anr.

Mr. Krishanu Banik

...For the Appellants/
Claimants

Mr. Rajesh Singh

...For the Respondent/
Insurance Co.

The appeal is directed against the judgment and order dated April 23, 2014 passed by the learned Judge, Fast Track, 1st Court, Burdwan, in M.A.C Case No. 12/93 of 2012, on a claim under section 163A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the said Act') for the death of one 'Bishu @ Biswajit Si', a bachelor, in a road accident dated March 6, 2012.

The claimants in the instant appeal challenged the quantum of compensation. It is submitted on behalf of the appellants that the monthly income of Rs.3,000/- of the victim, considered for by the learned Judge was inadequate. Claimants also argued that the deduction of 50% of victim's income for his 'personal expenses' was not permissible under section 163A of Motor Vehicles Act, 1988 and the said deduction should have been restricted to 1/3rd of deceased's income. Accordingly, it was argued

that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

The Insurance Company is represented.

Considering the fact that the above case was filed under section 163A of the said act and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. For the year 2012, in a claim under section 163A of the said Act, an amount of Rs.3,300/- per month does not appear to be exorbitant. Appellants are also justified in praying for 1/3rd deduction on account of 'personal expenses' of the income of the deceased. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Monthly income	Rs.3,300/-
Less 1/3 rd for personal espenses (Rs.1,100/-)	Rs.2,200/-
Annual Income	Rs.26,400/-
Muliplier (17)	Rs.4,48,800/-
General damages	<u>Rs.4,500/-</u>
TOTAL	Rs.4,53,300/-
Less already paid by insurer in terms of award	<u>Rs.1,58,500/-</u>
Enhanced amount	<u>Rs.2,94,800/-</u>

The claimants acknowledge receipt of the awarded amount of Rs.1,58,500/- along with interest. Accordingly, the balance enhanced sum of Rs.2,94,800/- would become payable to the appellants by the insurance

company, 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. Advocate for the Appellants will forward the bank account details of the appellants within a fortnight from date to Advocate for the insurance company. The payment shall be made in the proportion 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.)