25.06.2021
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F.M.A. 550 of 2021
I.A. No.1 of 2019 (Old No. CAN 12049 of 2019)
(Via Video Conference)

Sima Dikshit & ors.
Vs.
The National Insurance Co. Ltd. & anr.

Mr. Amit Ranjan Roy
...For the Appellants/claimants

Ms. Sucharita Paul
... For the respondent/Insurance Co.

The appeal is directed against the judgement and order dated December 14, 2018 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Tamluk, Purba Medinipur in M.A.C. Case No.32 of 2015/562 of 2015, on a claim under Section 163A of the Motor Vehicles Act, 1988.

The appellants/claimants submit that the 39 years old victim was earning Rs.300/- per day as a mason. However, the learned Tribunal erroneously took the income to be Rs.48,000/- per annum. The appellants/claimants further submit that the claimants are entitled to 40% future prospects on the income of the deceased and a total of Rs.70,000/- under the collective heads of general damages 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.**

Ms. Sucharita Paul, learned Advocate appearing on behalf of the Insurance Company argues that the learned Tribunal was correct in accepting the income of the victim to be Rs.48,000/- in absence of any documentary evidence.

This Court is inclined to accept the submissions made on behalf of the Insurance Company. However, it is now accepted in this Court for some time that 2015 onwards, the base income has to be taken at Rs.5,000/- per month. Moreover, such amount of Rs.5,000/- per month does not appear to be exorbitant at all for the year 2015, as an unskilled worker working on all days could have earned Rs.5,000/- per month. Accordingly, on such basis and considering the submissions as advanced by the learned Advocates for the parties, in my opinion, the monthly income of the victim should be taken at Rs.5,000/-.

The impugned award is thus modified recalculated and the claimants are found entitled to a total amount of Rs.10,15,000/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the receipt of payment as indicated more fully hereafter.

The monthly income of the victim is taken to be Rs.5,000/- per month. Upon adding 40% as future prospect, such amount comes to Rs.7,000/- per month. After annualizing the same and deducting 1/4th as personal expenses, it is the figure of Rs.63,000/- on which a multiplier of 15 would be applied. Thus, the net pecuniary compensation comes to Rs.9,45,000/-. The claimants are also entitled to Rs.70,000/- on account of loss of estate and funeral expenses, taking the gross compensation to Rs.10,15,000/- 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 receipt of the entire awarded amount along with interest. The balance sum of Rs.4,30,000/- would be paid equally to the appellants/ claimants together with interest assessed at the rate of 6% 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/ claimants. Learned Advocate for the appellants/ claimants will forward the bank account details of the appellants within a period of fortnight from date to the learned Advocate for the Insurance Company. 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, the 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.

LCT, if any, may be returned back to the Court below.

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.)