Ct. No. 26

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F.M.A. 451 of 2016
Smt. Mili Sahu & Ors.
Vs.
National Insurance Co. Ltd. & Anr.
(Via Video Conference)

Mr. Krishanu Banik ...**For the Appellants/Claimants**

Mr. Rajesh Singh ...**For the Respondent Insurance Co.**

The appeal is directed against the judgment and award dated July 23, 2015 passed by the learned Judge, Motor Accident Claims Tribunal, First Court, Contai, Purba Medinipur, in M.A.C Case No. 145 of 2010, on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 'Manik Lal Sahu' in a road accident dated May 19, 2010.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the claimants were not granted any amount under 'future prospect'. He further alleged that in view of four numbers of dependents, the deduction for 'personal expenses' should have been $1/4^{th}$ of the income of the deceased. Lastly, claimants pleaded that they were not granted Rs.70,000/- under full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

The learned Counsel for the Insurance Company submits that in the facts and circumstances of the case, the award passed by the learned Tribunal is justified.

Considering the judgements of the Hon'ble Apex in the cases of ***Smt. Sarala 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,** I find substance in the arguments of the appellants. Claimants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased. The deduction for personal expenses should be 1/4th of deceased's income and Rs.70,000/- must be granted to the claimants under collective heads of general damages.

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

Monthly Income	**Rs. 3,000/-**
Yearly Income	**Rs. 36,000/-**
Deduction 1/4th (Rs.9,000/-)	**Rs. 27,000/-**
Add 40% Future Prospects (Rs.10,800/-)	**Rs. 37,800/-**
Multiplier 16 (Age above 31 years)	**Rs.6,04,800/-**
Add General Damages	**Rs. 70,000/-**
Total compensation	**Rs.6,74,800/-**
Tribunal awarded and paid by insurer	**Rs.4,17,500/-**
Total balance Payable	**Rs.2,57,300/-**

The claimants acknowledge receipt of the awarded amount of Rs.4,17,500/- along with interest. Accordingly, the balance enhanced sum of Rs.2,57,300/- 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. Learned Counsel for the appellants will forward the bank account details of the appellants within a fortnight from date to learned Counsel for the Insurance Company.

The said enhanced payment shall be paid by the respondent/Insurance Company to the claimants through

NEFT/ RTGS 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.)