S/L 9
27.7.2021
Court No.26
AD

FMA 139 of 2016
(Via Video Conference)

Smt. Kanaklata Routh & Ors.
Vs.
The Branch Manager, Royal Sundaram Alliance Insurance Company Ltd. & Anr.

Mr. Krishanu Banik
... for the Appellants/Claimants.
Mr. Rajesh Singh
... for the Respondent/Insurance Company.

The appeal is directed against the judgment and order dated 16th day of September, 2015, passed by Learned Judge, Motor Accident Claims Tribunal, Bankura in M.A.C Case No.25 of 2015/32 of 2014, on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 'Bikash Routh' in a road accident dated March 16, 2014.

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 monthly income of Rs.3,000/- of the victim considered by the Learned Judge was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Lastly, claimants plead that they were erroneously given only Rs.9,500/- instead of Rs.70,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the Learned Advocate representing the insurance company argues that the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgements of *Smt. Sarla 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*, 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 2014, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.4,000/- per month does not appear to be exorbitant. Appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.70,000/- under collective heads of general damages. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Monthly Income	Rs.4,000/-
Annual Income	Rs.48,000/-
Less 1/3rd for personal expenses (Rs.16,000/-)	Rs.32,000/-
Add 40% future prospect (Rs.12,800/-)	Rs.44,800/-
Multiplier '15'	Rs.6,72,000/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.7,42,000/-
LESS – awarded by Tribunal and paid by insurer	Rs.3,69,500/-
BALANCE (enhancement)	Rs.3,72,500/-

The claimants acknowledge receipt of the awarded amount of Rs.3,69,500/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.3,72,500/- 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.

There shall be no order as to costs.

In view of the disposal of this appeal, connected application, if any, is also disposed of.

The concerned Department is directed to tag the applications, if any, with the main appeal.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)