

27.09.2021

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F.M.A. 282 of 2021
(Via Video Conference)

Mallika Ghosh & ors.

Vs.

The National Insurance Co. Ltd. & anr.

Mr. Amit Ranjan Roy

...For the Appellants/claimants

Mr. Parimal Kumar Pahari

... For the respondent No.1/Insurance Co.

The instant appeal is directed against the judgment and award dated January 20, 2020 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Burdwan in MAC Case No.15 of 2017 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 45 years old Kali Sankar Ghosh in a road traffic accident on 21st March, 2014.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation.

Mr. Roy, learned Counsel appearing on behalf of the appellants/claimants submits that the monthly income of Rs.3,000/- of the victim considered by the learned Judge was inadequate. It is further pleaded that the learned Tribunal had also committed error in law in not granting interest on the awarded sum from the date of filing of the claim application.

Accordingly, it has been argued that meager amount of compensation has been awarded by the tribunal in the instant case.

Per contra, Mr. Parimal Kumar Pahari, learned Advocate appearing on behalf of the insurance company submits that the learned Tribunal rightly assessed the income of Rs.3,000/- per month notionally in absence of any documentary evidence.

Considering the judgements of the Hon'ble Apex Court in the case 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.

Accordingly, this Court is of the view that the compensation amount should carry interest from the date of filing of the claim application as it is well settled under Section 171 of the Motor Vehicles Act, 1988.

Accordingly, the impugned award is modified in the following manner :-

Particulars	Amount (Rs.)
Yearly income (Rs.4000 X 12)	Rs.48,000/-
Less: Deduction 1/3rd	(-) <u>Rs.16,000/-</u> Rs.32,000/-
Add: 25% future prospects	(+) <u>Rs.8,000/-</u>
Total Annual loss of income	Rs.40,000/-
Multiplier '14' (age 45 years)	Rs.5,60,000/-
Add 'General Damages'	<u>Rs.70,000/-</u>
TOTAL Principal Compensation	Rs.6,30,000/-
LESS – awarded by Tribunal and paid by insurer	(-) <u>Rs.4,90,000/-</u>
BALANCE (enhancement)	<u>Rs.1,40,000/-</u>

Mr. Roy acknowledges that his clients have already received the awarded amount of Rs.4,90,000/- without interest. Accordingly, the insurance company is directed to pay the balance sum of Rs.1,40,000/- 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.

For the reasons given hereinabove on the point of interest, the claimants/appellants are also entitled to get the same rate of interest, that is, @ 6% per annum as directed above on the awarded amount of Rs.4,90,000/- from the date of the claim application till the payment made by the respondent/insurance company.

It is made clear that all the payments shall be made by the insurance company through NEFT/RTGS to the bank accounts of the claimants and for such purpose the learned Advocate for the claimants shall furnish bank account particulars to the learned Advocate for the insurance company within two weeks.

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.)