

Ct. 22.6
No. 26
27
akb
2021

F.M.A.T. 107 of 2020

(Via Video Conference)

Mamata Yadav & Ors.

Vs.

Shriram General Insurance Co. Ltd. & Anr.

Mr. Sk. Abu Abbasuddin ...For the Appellants/Claimants

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

On the oral prayer of the learned counsel appearing on behalf of the appellants, the delay in filing the appeal is condoned. No serious objection has been raised by Mr. Rajesh Singh, learned Counsel appearing on behalf of the Insurance Company/respondent.

The claimants are aggrieved by the inadequate compensation granted by the Tribunal in its award dated July 8, 2019 passed by the learned Judge, 9th Bench, City Civil Court, Motor Accident Claims Tribunal, Calcutta in M.A.C. Case No. 223 of 2016.

Three points have been mainly raised by the claimants in the instant appeal. 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. Further, in view of 4 nos. of claimants, the deduction on account of personal expenses of the victim should have been 1/4th instead of 1/3rd, as deducted by the Tribunal. Lastly, the claimants were not granted any amount under 'future prospect'. Accordingly, it was argued that a lesser quantum of compensation has been erroneously awarded by the Tribunal.

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 2016, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 5,000/- per month does not appear to be exorbitant.

Similarly, appellants are justified in praying for the deduction of $\frac{1}{4}^{\text{th}}$ of the income of the deceased for 'personal expenses' instead of $\frac{1}{3}^{\text{rd}}$ as decided by the Tribunal. Considering the 29 years of the age of the victim, the claimants would also be entitled for 40% addition on account of 'future prospect' on the income of the deceased. The appellants however admit that the correct multiplier, in the instant case should be '17' instead of '18' as applied by the Court below.

The impugned award is thus modified and the claimants are found entitled to a total amount of Rs. 11,41,000/- 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.

Taking the monthly income of the victim to be Rs. 5,000/-, the annual income comes to Rs.60,000/-. By adding 40% future prospect and deducting $\frac{1}{4}^{\text{th}}$ on account of personal expenses, it is the figure of Rs. 63,000/- on which the multiplier of 17 will have to be applied. The net pecuniary compensation comes to Rs. 10,71,000/-. The appellants are also entitled to general damages of Rs. 70,000/- on account of loss of consortium, loss of estate and funeral expenses, taking the gross compensation to Rs. 11,41,000/- 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 a sum of the entire awarded amount of Rs.5,50,000/- along with interest. The balance sum of Rs.5,91,000/- would become payable to the appellants 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 same proportion as decided by the Court below.

FMAT 107 of 2020 is disposed of. There will 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 application, if any, with the main appeal.

Urgent photostat copy of the order, if applied for, be supplied to the petitioner on priority basis on compliance of necessary formalities.

(Shekhar B. Saraf, J.)