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(Via Video Conference)

F.M.A. 610 OF 2011
with
I.A. No. CAN 2 OF 2018
(Old No. CAN 5432 of 2018)

Smt. Sabitri Biswas & Anr.
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee

...For the Appellants/
Claimants.

Mr. Parimal Kumar Pahari

...For the Respondent /
Insurance Co.

I.A. No. CAN 2 OF 2018
(Old No. CAN 5432 of 2018)

This is an application for disclosing the fact that during pendency of the appeal, the appellant no.2 (Shri Kanai Biswas) died on 26.8.2017 intestate and the heir of Shri Kanai Biswas is already on record.

Accordingly, name of the appellant no.2, Shri Kanai Biswas, should be deleted from the Memorandum of appeal.

The application being I.A. No. CAN 2 of 2018 (Old No. CAN 5432 of 2018) is disposed of directing the department concerned to take appropriate steps in respect of the appellant no. 2.

F.M.A. 610 of 2011

The appeal is directed against the judgement and award dated May 14, 2010 passed by the learned Judge,

Motor Accident Claims Tribunal, District Judge, Nadia, in MAC Case No. 231 of 2008 in a claim under section 163A of the Motor Vehicles Act, 1988.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellant that the tribunal accepted Rs.2,400/- instead of Rs.3,000/- as the monthly income of the deceased. Mr. Banerjee, learned advocate for the appellants/claimants further submits that the correct multiplier in the instant case should have been 16 instead of 8 as the age of the victim was 34 years.

The insurance company is represented.

After considering the submissions as advanced by the learned advocate for the parties, the impugned award is modified and recalculated as follows :

Particulars	Amount (Rs.)
Monthly income	Rs.3,000/-
Annual income	Rs.36,000/-
Less 1/3 rd for personal expenses (Rs.12,000/-)	Rs.24,000/-
Multiplier '16'	Rs.3,84,000/-
Add 'General Damages'	
Rs.4,500/-	Rs.3,88,500/-
Less – awarded amount already paid	<u>Rs.1,58,100/-</u>
Balance (enhancement)	<u>Rs.2,30,400/-</u>

The appellants/claimants acknowledges receipt of the awarded amount of Rs.1,58,100/-. Accordingly, the balance enhanced sum of Rs.2,30,400/- would become payable to the appellants/claimants by the Insurance

Company together with interest assessed @ 6% per annum on and from the date of filing of the claim application 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/claimants within a fortnight from date to the learned advocate for the Insurance Company.

Since the appellant no. 2 died, the entire payment shall be made to the appellant no. 1 (Smt. Sabitri Biswas) only.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of this appeal, connected applications, if any, are also disposed of. The department concerned 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.)