

04-01-2021
Sl. 72
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F. M. A. 1245 of 2012
(CAN 6987 of 2017)

Smt. Mamata Sutradhar and others
Vs.
The National Insurance Co. Ltd and others

Mr. Amit Ranjan Roy
... for the appellants/claimants.

Mr. Deb Narayan Roy
...for the respondent no. 1/Insurance Company

Re: CAN 6987 of 2017

This is an application for expunging the name of the appellant no. 3, namely, Hemanta Sutradhar, who died on 24th February, 2016. He was 25 years of age. The legal heirs of Hemanta Sutradhar are already on record.

Accordingly. the application being CAN 6987 of 2017 is allowed.

Since the appellant no. 4 has got married after filing of the appeal, leave is granted to the counsel for the appellants to amend the cause title in course of the day.

This appeal is directed against the judgement and award dated 10th June, 2011 passed by the learned Additional District Judge, Motor Accident Claims Tribunal, 2nd Court, Asansol, Burdwan in M. A. C. Case No. 84 of 2009.

The claim was not lodged under Section 166 of the Motor Vehicles Act, 1988 for compensation.

The facts of the case are not in dispute and available in the impugned judgement.

The appellants, however, are aggrieved by the fact that the income of the deceased should have been taken as Rs.3000/- in stead of Rs.2500/- per month. Hence, yearly income of the petitioner should have been Rs.36,000/-.

Counsel for the petitioner argues that future prospect has not been considered by the Tribunal.

Counsel for the Insurance Company argues that multiplier has also been incorrectly applied.

In view of the practice followed by this Court and the decision of the Supreme Court in the case of the **National Insurance Company Limited Versus Pranay Sethi reported in (2017) 16 SCC 680**, compensation payable to the appellants is recalculated as follows :

Income (per month) =	Rs. 3,000 /-
	X 12
Yearly Income	<u>Rs. 36,000/-</u>
(+) Future Prospect (25%)	<u>Rs. 9,000/-</u>
	Rs. 45,000/-
(-) deduction 1/3 rd	<u>Rs. 15,000/-</u>
	<u>Rs. 30,000/-</u>
Multiplier(Age 44 years)	X 14
	Rs. 4,20,000/-
(+) General damages	= <u>Rs. 70,000/-</u>
Total Compensation	Rs. 4,90,000/-

The appellant shall be entitled to Rs.1,80,500/- being the sum of Rs.4,90,000/- minus the sum of Rs.3,09,500/- as awarded by the Tribunal. The sum of Rs.3,09,500/- has already been received by the appellant.

The said sum of Rs.1,80,500/- shall carry interest @ 6% per annum on and from the date of filing of the claim petition till the date of payment.

The insurance Company shall pay the amount proportionately between the appellants into their respective bank accounts as per the order of the Tribunal. The share of deceased Hemanta Sutradhar, the original appellant no. 3, shall be equally divided amongst the other three appellants.

Particulars of the bank accounts of the appellants shall be supplied by their counsel to the counsel for the Insurance Company. Payment shall be made within 45 days thereafter into the said bank accounts.

With the aforesaid observations, the instant appeal shall stand disposed of.

LCR, if any, may be returned back to the court below.

No order as to costs.

Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)