

23.08.2021

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F.M.A. 277 of 2021

(Via Video Conference)

Rita Karmakar & ors.

Vs.

The United India Insurance Co. Ltd. & anr.

Mr. Amit Ranjan Roy

...For the Appellants/claimants

Mr. Sanjay Paul

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

The appeal is directed against the judgment and award dated November 27, 2020 passed by the Learned Additional District & Sessions Judge and Judge, Motor Accident Claims Tribunal, Fast Track, 2nd Court, Purba Bardhaman, in MAC Case No. 44 of 2016/272 of 2016, on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one Mohan Karmakar in a road accident on 22nd June, 2016.

Facts of the case are not in dispute.

The main contention of the appellants in the instant appeal is quantum of compensation.

Mr. Amit Ranjan Roy, learned Counsel, appearing on behalf of the appellants submits that the learned Tribunal committed error in law while assessing the monthly income of the deceased as Rs.3000/- instead of Rs.9,000/.

Mr. Roy further submits that the claimants have also been deprived by the tribunal for not granting 25% additional income towards future prospect since the

deceased was 44 years old self employed person.

Accordingly, Mr. Roy submits that the learned Tribunal granted inadequate compensation and accordingly, the award should be enhanced.

Per contra, Mr. Sanjay Paul learned Advocate appearing on behalf of the Insurance Company submits that the learned Tribunal rightly assessed the income of the deceased as Rs.3,000/- per month notionally in absence of any documentary evidence and there is no scope of interference and/or enhancement by the Hon'ble High Court at this stage.

Having heard the submissions of the parties, considered the reported judgments of the Hon'ble Apex Court in the case of **Smt. Sarala Verma & Ors. -Vs.- Delhi Transport Corporation & Anr.**, reported in **(2009) 6 SCC 121** and in **National Insurance Company Limited -Vs.- Pranay Sethi & Ors.**, reported in **(2017) 16 SCC 680** and also followed the precedence of this court on the point of monthly income, I find some substance on the submission 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. The appellants are also entitled to get 25% additional amount towards future prospect of the deceased.

Accordingly, the impugned award is required to be modified in the following manner :

<u>Mode of assessment</u>	<u>Amount</u>
Monthly income	Rs. 5,000/-
Yearly income (X12)	Rs.60,000/-
After 1/3 deduction (60000-20000)	Rs.40,000/-
25% future prospect (40000X25%)	<u>Rs.10,000/-</u>
Total loss of income	Rs. 50,000/-
Age 44 Multiplier 14 (50000X14)	Rs. 7,00,000/-
General damages	<u>Rs. 70,000/-</u>
Total compensation	Rs.7,70,000/-
Tribunal awarded	<u>Rs 4,06,000/-</u>
Compensation payable	Rs.3,64,000/-

Mr. Roy acknowledged that the appellants/claimants received the entire awarded amount of Rs.4,06,000/- along with interest in terms of the direction of the learned Tribunal. Accordingly, the balance enhanced sum of Rs.3,64,000/- would become payable to the appellants/claimants by the respondent Insurance company together with interest assessed @ 6% per annum on and from date of filing of the claim application (i.e. 05/07/2016) till the date of payment.

The respondent/Insurance Company is hereby directed to pay Rs.3,64,000/- along with 6% interest per annum on and from the date of filing the claim application i.e. 05/07/2016 till payment within a period of 45 days from date.

It is made clear that all the payments shall be made through NEFT/RTGS to the bank accounts of the appellants/claimants and for such purpose the learned Advocate for the appellants/claimants shall furnish bank accounts particulars of the appellants/claimants to the learned advocate for the Insurance Company within two weeks.

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.

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.)