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(Via Video Conference)

F.M.A 205 of 2021
with
I.A. No. CAN 1 of 2021
(Application is not tagged with file)

Namita Dey & Anr.
Vs.
The New India Assurance Company Limited, Barasat Branch & Anr.

Mr. Amit Ranjan Roy

...For the Appellants/ Claimants

Ms. Sucharita Paul

...For the Respondent/ Assurance Co.

The appeal is directed against the judgment and order dated 17th February, 2020 passed by the Learned Judge, Motor Accident Claims Tribunal, 3rd Court, Krishnagar, Nadia, in M.A.C. Case No. 79 of 2017, on a claim under Section 166 of the Motor Vehicles Act, 1988, for an accident which took place on January 15, 2017.

The claimants submit that the 25 years old victim was earning Rs. 9,000/- per month as a carpenter. However, the learned tribunal erroneously took the income to be Rs. 3,000/- per month. The appellants also submit that the multiplier in the instant case should have been 18 instead of 17. Further, the claimants are entitled to 40% future prospects on the income of the deceased and a total of Rs. 30,000/- under the collective heads of general damages in view of the law as it stands now after the judgments delivered by the Hon'ble Supreme 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*.

Mrs. Paul, the Ld. Advocate appearing on behalf of the insurance company argues that the Ld. Tribunal was correct in accepting the income of the victim to be Rs. 3,000/- in absence of proper documentary evidence.

This Court is inclined to accept the submissions made on behalf of the insurance company. However, it is now accepted in this court for some time that 2015 onwards, the base income has to be taken at Rs.5,000/- per month. Moreover, such amount of Rs. 5000/- per month does not appear to be exorbitant at all for the year 2015, as an unskilled worker working on all days could have earned Rs. 5000/- per month. Accordingly, on such basis and considering the submissions as advanced by the learned advocates for the parties, in my opinion, the monthly income of the victim should be taken as Rs. 5,000/-.

The impugned award is thus modified and recalculated. The monthly income of the victim is taken to be Rs. 5,000/- per month. Upon adding 40% as future prospect, such amount comes to Rs. 7,000/- per month. After annualizing the same and deducting 1/2 as personal expenses, it is the figure of Rs. 42,000/- on which a multiplier of 18 would be applied. Thus, the net pecuniary compensation comes to Rs. 7,56,000/-. The claimants are also entitled to Rs. 30,000/- on account of loss of estate and funeral expenses, taking the gross compensation to Rs. 7,86,000/- 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 the entire awarded amount of Rs. 3,21,000/- along with interest. The balance sum of Rs. 4,65,000/- would be paid to the appellants by the insurance company 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 proportion decided by the Court below.

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.)