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(Via Video Conference)

F.M.A.T 147 OF 2021

Smt. Gargi Singh & Ors.
-Vs.-
The Oriental Insurance Co. Ltd. & Anr.

Mr. Subhankar Mandal
...For the Appellants/ Claimants.
Mr. Parimal Kr. Pahari
...For the Respondent/ Insurance Co.

Mr. Mandal counsel is appearing on behalf of the appellants/claimants and prays for leave to amend the vakalatnama.

Accordingly, leave is granted, as prayed for.

The appeal is directed against the judgment and order dated 08-07-2020 passed by the Additional District & Session Judge -cum- Motor Accident Claims Tribunal, Fast Track 1st Court, Asansol, District – Paschim Bardhhaman in M.A.C Case No. 06 of 2016/ M A C 140 of 2016, for a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 'Ananda Kumar Singh @ Anand Kumar Singh in a road accident dated 01-07-2016.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the annual income of Rs.3,24,654/- of the victim, considered for by the tribunal was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Lastly, claimants pleaded that in view of 4 number of dependents, the deduction for personal expenses should have been $1/4^{th}$ of victim's income and not $1/3^{rd}$ as deducted by the tribunal. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the tribunal.

The Insurance Company is represented.

In view of the law as laid down in ***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***, I find there is no substance in the arguments of the appellants for modification of the annual income. Appellants are justified in praying for 50% addition on account of 'future prospect' on the income of the deceased. As there were more than 3 dependents, the deduction for personal expenses should be $1/4^{th}$ of deceased's income. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Annual income (gross income less tax)	Rs 3,24,654/-
Add 40 % future prospects	Rs 1,29,862/-
Total income	Rs 4,54,516/-
Less personal expenses ($1/4^{th}$)	Rs 1,13,629/-
Dependency for family	Rs 3,40,887/-
Compensation (multiplier 17)	Rs 57,95,079/-
Add general damages	Rs 70,000/-
Total compensation	Rs 58,65,079/-

The claimants acknowledge the receipt of the awarded amount of Rs.37,49,412/- along with interest. Accordingly, the balance enhanced sum of Rs.21,15,667/- would become payable 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 30 days from the date of receipt of the bank account particulars of the appellants.

Counsel for the appellants will forward their bank account details within a fortnight from date to counsel for the insurance company. The payment shall be made in the proportion as decided by the tribunal.

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.

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

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.)