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(Via Video Conference)

F.M.A.T 172 of 2019

Prabhash Bhunya & Anr.

Vs.

**The National Insurance Company Ltd.
Divisional Office at Haldia & Anr.**

Mr. Amit Ranjan Roy

...For the Appellants/
Claimants.

Mr. Afroze Alam

...For the Respondent/
Insurance Co. Ltd.

The appeal is directed against the judgment and order dated December 1, 2018 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court Tamluk, Purba Medinipur in M.A.C. Case No. 60 of 2015/395 of 2015, on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 'Draupadi Bhunya' in a road accident dated May 4, 2015.

Three points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants/claimants that they were not granted any amount under 'future prospect'. The appellants/claimants also submit that they were erroneously given only Rs.30,000/- instead of Rs.70,000/- under the different heads of 'general damages'. According to the appellants/claimants. the tribunal did not grant interest

on the awarded sum from the date of filing of the claim application. Accordingly, it has been argued on behalf of the appellants/claimants that lesser quantum of compensation has been wrongfully awarded by the tribunal.

Per contra, Mr. Afroze Alam, advocate representing the respondent/insurance company argues that the award is just and reasonable and there is no further scope of enhancement of the same and also submits that the tribunal awarded Rs.30,000/- on account of general damages.

Considering the judgements 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**, I find substance in the arguments of the appellants/claimants. They are justified in praying 40% addition on account of future prospect on the income of the 35 years old deceased and also justified in praying Rs.70,000/- instead of Rs.30,000/- on account of general damages. On the point of interest, Hon'ble Supreme Court has already held that under Section 171 of the Motor Vehicle Act, interest should be granted on and from the date of filing of the claim application till realisation.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	Amount (Rs.)
Monthly Income	Rs.5,000/-
Annual Income	Rs.60,000/-
Less 1/3 rd for personal expenses (Rs.20,000/-)	Rs.40,000/-
Add 40% future prospect (Rs.16,000/-)	Rs.56,000/-
Multiplier '16'	Rs.8,96,000/-
Add 'General Damages'	Rs.70,000/-
Total Principal Compensation	Rs.9,66,000/-
Less – awarded by tribunal and paid by insurer	<u>Rs.6,70,000/-</u>
Balance (enhancement)	<u>Rs.2,96,000/-</u>

The appellants/claimants acknowledge the receipt of the awarded amount of Rs.6,70,000/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.2,96,000/- would become payable to the appellants/claimants by the respondent/insurance company with interest assessed at the rate of 6% per annum on and from the date of filing of the claim application till the date of payment.

The respondent/ insurance company is also liable to pay interest @6% per annum on the awarded sum of Rs.6,70,000/- from the date of filing of the claim application till deposit that was made before the tribunal.

The respondent/Insurance Company is hereby directed to pay Rs.2,96,000/- with interest @6% per annum on and from the date of filing of the claim application till payment directly to the bank accounts of the appellants/claimants within a period of 45 days from date.

Learned advocate for the appellants/claimants will forward the bank account details of the appellants/claimants within a fortnight from date to the advocate for the respondent/insurance company. The payment shall be made in the proportion as 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 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.)