

(Via Video Conference)

F.M.A 353 OF 2021

**Pushpa Jana & Ors.
-Vs.-
Oriental Insurance Co. Ltd. & Ors.**

Mr. Subhankar Mandal

...For the Appellants/
Claimants

Mr. Parimal Kumar Pahari

...For the Respondent/
Insurance Co.

The appeal filed by the claimants is against the Judgment and award dated December 11, 2019, passed by the Motor Accident Claims Tribunal, 7th Court, Paschim Medinipur in M.A.C. Case No. 96 of 2014 in a claim under section 166 of the Motor Vehicle Act, 1988 for the accidental death of one Nepal Jana on June 11, 2013, who left behind his widow, son & daughter.

The facts of the case are not in dispute.

The insurance company is represented.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Counsel appearing for the appellants/claimants submits that the tribunal assessed the principal compensation at Rs.8,47,687/ but committed error in granting only Rs.6,00,000/ on the ground that the claimants had restricted their claim to Rs.6,00,000/ in the claim application. In the case of

Nagappa –Vs- Gurdayal Singh reported in **(2003) 2 SCC 274** Hon'ble Apex Court held that it is the duty of the Court to pay just compensation after considering materials on record irrespective of claim amount as mentioned in the claim application.

Accordingly, considering the judgment of Hon'ble Apex Court as referred above, award passed by the court below, is modified and the compensation amount is fixed at Rs 8,47,687/-.

The appellants submit that they have received the awarded amount of Rs.6,00,000/ along with interest from the insurance company. Therefore, balance amount of Rs. 2,47,687/ shall be paid by the respondent insurance company along with interest @6% per annum to be calculated from the date of filing of the claim application till payment to the appellants/claimants within thirty days of receipt of particulars of their bank accounts, to be supplied by their counsel to the counsel for the insurance company.

It is made clear that the payments shall be made by NEFT/ RTGS in the proportion as ordered 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.)