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F.M.A No. 770 of 2012
F.M.A.T. No. 167 of 2012
With
CAN 1 of 2017 (Old No. 9779 of 2017)

(Via Video Conference)

Ajmira Bibi Karikar @ Ajmira Bibi & Ors.
Versus
National Insurance Company Ltd. @ Anr.

Mr. Krishanu Banik, Adv.
...for the appellants.

Mr. Saswata Bhattacharya, Adv.
... for the respondent No.1.

Mr. Krishanu Banik, learned advocate for the appellants urges before this court for expeditiously disposal of this appeal, even to the extent of giving a go by to the rules applicable in the process. He further submits that necessary documents relevant for adjudication of the appeal are with the learned advocate, and the same may be produced in the interest of ensuring expeditious disposal of this appeal, which is not opposed by the learned advocate appearing for the respondents.

When learned advocate for both the parties are ad idem on the issue urging thereby for expeditious disposal of this appeal, the court should not stand in the way. The appeal is thus taken up for consideration.

The instant appeal has been preferred by the claimants/appellants impugning the judgment and award dated 31st May, 2011 passed by the Motor Accident Claims Tribunal/learned Additional District and Sessions Judge Burdwan in M.A.C. Case No. 02 of 2009, 344 of 2009 on a claim under Section 166 of the Motor Vehicles Act, 1988 for a vehicular accident occurred on 19th September, 2009, resulting in death of victim by reason of involvement of vehicle bearing No. WB 41B/6594 due to rash and negligent driving.

Mr. Banik has preferred this appeal being dissatisfied with the quantum of compensation granted in this case, taking grounds which are three folds.

Firstly, the learned Tribunal has committed an error in not granting future prospects to the claimants as the victim was a 39 years old person, a hawker by profession, having an income of Rs.3000/- per month to maintain his dependent family members. According to Mr. Banik, future prospects should have been added at the rate of 40% to the income of the deceased.

Secondly, damages under the collective head though granted to the tune of Rs.9,500/-, but it was not in consonance with the settled proposition of law, and thus it should have been assessed of Rs.70,000/-.

Thirdly, pertaining to multiplier, which according to Mr. Banik, the Tribunal has misapplied upon selecting 17 as multiplier erroneously, and it should have been selected to 15, as multiplier.

Reliance has been placed by Mr. Banik on a decision rendered in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*** reported in ***(2017) 16 SCC 680*** to cover the points raised in this appeal.

Mr. Saswata Bhattacharya, learned advocate representing respondents/insurance company limited, submits that Tribunal has rightly assessed the compensation upon due considerations of the pros and cons of the case. There lies nothing to be interfered with, and even for any modification, as proposed by the appellants. Taking such grounds the insurance company has proposed for dismissal of appeal.

Selection of the multiplier to quantify the award is of highest significance. In the event of a multiplier being selected erroneously, without having due regard to the provisions of law, there cannot be any perfect quantification of the award. When the victim suffered the accident at his 39 years of age, indisputably the multiplier should have been selected to 15, instead of 17.

Upon perusal of the materials produced, and bearing in mind the proposition of law, decided in the case of ***Pranay Sethi (supra),*** as referred by Mr. Banik, there lies scope for revisiting the impugned judgment, because a self employed person cannot be deprived from having appropriate future prospects. In that view of the matter, there should have been addition of 40%, as future prospects to the income of the deceased, for perfect quantification of the award.

Having considered the rival submissions of the parties and bearing in mind the settled proposition of law, as referred hereinabove, the impugned award needs modification, simply to make it just, proper and perfect.

The award is thus modified doing necessary calculations as hereunder:

Particulars	**Amount (Rs.)**
Monthly income	**3,000/-**
Annual income	**36,000/-**
40% additional income towards future prospect.	**14,400/-**
Loss of Total annual income (36,000 + 14,400)	**50,400/-**
Less 1/3rd deduction	**16,800/-**
Loss of annual dependency (50,400-16800)	**33,600/-**
Multiplier (15) i.e. (33,600 x 15)	**5,04,000/-**

General damages	**70,000/-**
Total	**5,74,000/-**
Less amount received 4,17,500/-	**-**
Balance Amount	**1,56,500/-**

Mr. Banik acknowledges that his clients have already received a sum of Rs.4,17,500/- together with interest. The differential/balance amount of Rs.1,56,500/- together with interest assessed as 6% from the date of filing of the claim application till payment shall be paid to the claimants by the insurance company in the same manner, and proportion as already decided by the Tribunal within 45 days from the date of receipt of bank particulars of the appellants to be supplied by their counsel to the counsel of insurance company.

The payment shall be made to the claimants by NEFT/RTGS.

With the aforesaid direction, the instant appeal bearing No. FMA 770 of 2012 stands disposed of.

In view of the disposal of appeal, connected application is also disposed of.

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.

(Subhasis Dasgupta, J)