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(Via Video Conference)

F.M.A. 25 OF 2021

Shukla Kundu & Anr.
Vs.
United India Insurance Co. Ltd. & Anr.

Mr. Muktakesh Das
...For the Appellants/
Claimants.
Mr. Parimal Kumar Pahari
...For the Respondent/
Insurance Co.

The instant appeal has been filed by the appellants/claimants against the award dated December 6, 2019 passed by the Judge, Motor Accident Claims Tribunal, Nadia, Krishnagar in M.A.C. Case No. 158 of 2017 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the accidental death of Bijan Kundu on March 20, 2017.

The fact of the case is that one Bijan Kundu died in the motor vehicle accident at the age of 22 years and used to earn Rs.8,000/- per month as self employed business person. The legal heir being the appellant is claiming for compensation on that account.

The facts of the case are not in dispute.

Counsel appearing for the appellants/claimants submits that the tribunal committed an error in law while not granting future prospect of 40% since the deceased was 22 years old as self-employed business person. He also submits that the tribunal also committed errors in law while applying the multiplier 17 instead of 18 and not granting Rs.30,000/- as general damages.

Mr. Pahari, advocate appearing for the insurance company submits that the victim used to earn Rs.8,000/- per month but no income certificate or document as a proof was adduced by the claimants.

Be that as it may, considering the rival submissions of the parties as well as 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 claimants.

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

Particulars	**Amount (Rs.)**
Monthly Income	Rs.5000/-
Annual Income	Rs.60,000/
Add future prospect 40%	Rs.24,000/-
Total income	Rs.84,000/-
Less 1/2 for personal expenses	Rs.42,000/-
Annual loss of dependency	Rs.42,000/-
Multiplier '18'	Rs.7,56,000/-
Add 'General Damages'	Rs.30,000/-
TOTAL Compensation	Rs.7,86,000/-

The appellants submit that they have received the awarded amount of Rs.3,10,000/- with interest. The balance enhanced sum of Rs.4,76,000/- would become payable to the claimants/appellants by the insurance company with interest assessed @ 6% per annum on and from the date of filing of the claim petition till the date of realisation.

The enhanced compensation with interest as stated above is to be paid by the insurance company to the claimants within a period of 30 days of receipt of the particulars of their bank accounts to be supplied by the counsel for the claimants to the counsel for the insurance company.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as directed 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 original applications, if any, with the main appeal.

There will be no order as to costs.

LCR, if any, be returned back to the lower court immediately.

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.)