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(Via Video Conference)

F.M.A.T 259 of 2020

Shefali Majumder & Anr.
Vs.
National Insurance Co. Ltd. & Ors.

Mr. Muktakesh Das

...For the Appellants/
Claimants

Mr. Sanjay Paul

...For the Respondent/
Insurance Company

On the basis of oral application, delay in filing the appeal is condone.

This instant appeal case filed by the claimants against the award and/or Judgment dated 26.08.2019 which was corrected on 11.09.2019 passed by the Learned M.A.C. Tribunal, Additional District Judge, FTC-II, Krishnanagar, Motor Accident Claims Tribunal, Nadia in M.A.C. Case no 363 of 2014 on a claim under Section 166 of Motor Vehicle Act.,1988 for the accidental death of Bikash Majumder.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the M. V. Act, 1988. The Learned Advocate for the appellant/claimant submits that the Learned Tribunal committed error in law while not assessing the monthly income of the deceased Rs. 3,000/ instead of Rs.5,000/.

Learned Advocate for the respondent insurance company submits that the Learned is just while not

monthly income of the deceased Rs.5,000/ since the claimants failed to produce any cogent evidence before the Tribunal to establish the monthly income of the deceased.

The Learned Advocate for the respondent insurance company further submits that the Learned Tribunal committed serious error in law while not deducting 50% personal expenses from the additional amount of future prospect.

Be that as it may, considering the rival submissions of the parties as well as judgment of Hon'ble Apex Court as well as general practice of our High Court, above award passed by the Tribunal below is modified and recalculated as follows:

Monthly income		Rs.4,000/
Annual Income =		Rs 48,000/
Add Future Prospect 40 %		Rs 19,200/
Total Income		Rs. 59,200/
Less personal expenses (50%)		Rs. 29,600/
Annual loss of dependency		Rs 29,600/
Multiplier 18	(Rs 29,600 x 18)	Rs 5,32,800/
Add General Damages		Rs 30,000/
Total compensation =		Rs 5,62,800/

It goes without saying that the Learned Tribunal awarded compensation of Rs.6,13,200/ and the Appellant acknowledges that they have received the Awarded amount of Rs. 6,13,200/ along with interest amount.

Therefore, this Court finds that there is no scope of any interference with the award passed by the Learned Tribunal.

With the aforesaid directions, the instant appeal stand disposed of.

There will be no order as to costs.

The department is directed to send down the LCR.

Photostat certified copy of this order, if applied for, be furnished upon compliance of all formalities.

(Shekhar B. Saraf, J.)