02.07.2021
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F.M.A. 105 of 2021

(Via Video Conference)

Rafiya Dafadar & ors.
Vs.
Shriram General Insurance Co. Ltd. & anr.

Mr. Amit Ranjan Roy
...For the Appellants/claimants

Mr. Rajesh Singh
... For the respondent No.1/Insurance Co.

The appeal is directed against the judgment and order dated December 22, 2017 passed by Learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 3rd Court, Krishnagar, Nadia in M.A.C Case No. 99 of 2012, on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 'Saker Dafdar' in a road accident dated February 9, 2012.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the monthly income of Rs.3,000/- of the victim, considered for by the learned Judge was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Claimants argue that in view of 5 numbers of dependents, the deduction for personal expenses should have been 1/4th of victim's income and not 1/3rd as deducted by the tribunal. Lastly, the claimants pleaded that they were erroneously given only

Rs.4,500/- instead of Rs.70,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal. The appellants however admit that in the instant case, the appropriate multiplier should have been '14' and tribunal erred in adopting '15' as the multiplier.

The Insurance Company is represented.

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** and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. For the year 2012, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.4,000/- per month does not appear to be exorbitant. Appellants are justified in praying for 25% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.70,000/- under collective heads of general damages. As there were more than 3 dependents, the deduction for personal expenses should be 1/4th of deceased's income. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

The income of the victim being Rs.4,000/- per month, upon annualizing, comes to Rs.48,000/-. The addition of 25% 'future prospect' brings it to Rs.60,000/-. For 'personal expenses', 1/4th is deducted and then it is the amount of Rs.45,000/- on which the multiplier of 14 is applied to reach the net pecuniary compensation of Rs.6,30,000/-. Claimants are also entitled to Rs.70,000/- on account of collective heads of general damages, taking the gross compensation to Rs.7,00,000/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge receipt of the awarded amount of Rs.3,69,500/- along with interest. Accordingly, the balance enhanced sum of Rs.3,30,500/- would become payable to the appellants by the insurance company, together with interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition within a period of 45 days from the date of receipt of the bank account particulars of the appellants. Advocate for the Appellants will forward the bank account details of the appellants within a fortnight from date to Advocate for the insurance company. The payment shall be made in the proportion 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 concerned Department 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.)