

S/L 13
23.8.2021
Court No.26
SD

FMAT 263 of 2019
(Via Video Conference)

Faijun Bibi & Ors.
Vs.
The Oriental Insurance Co. Ltd. & Anr.

Mr. Saidur Rahaman

...for the Appellant/Claimants.

Ms. Sucharita Paul

...for the Respondents/Insurance Co.

The above appeal has been filed by the claimants against the judgment and award dated December 21, 2018, passed by the Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur, in M.A.C. Case No.131 of 2017, on a claim under section 166 of the Motor Vehicles Act, 1988.

The appellants submit that the victim was earning Rs. 6,000/- per month as a mason. However, learned Tribunal assessed the compensation on the basis of monthly income of Rs. 3,000/-. It is further stated that the claimants are entitled to 25% future prospects on the income of the 44 years old deceased and a total sum of Rs. 70,000/- on the collective heads of general damages, in view of the law as it stands now after the judgment delivered by the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680***.

Mrs. Paul, the learned Advocate appearing on behalf of the insurance company argues that the learned Court below was correct in accepting the income of the victim to be Rs. 3,000/- per month in absence of proper evidence.

This Court is inclined to accept the submissions made on behalf of the insurance company. However, it is now accepted in this Court for some time that 2015 onwards, the base income has to be taken at Rs.5,000/- per month. Moreover, such amount does not appear to be exorbitant at all for the year 2017, as an unskilled worker working on all days could have earned Rs. 5000/- per month.

Accordingly, on such basis and considering the submissions as advanced by the learned advocates for the parties the impugned award is modified and reassessed as follows:

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly income	5,000.00
Add 25% future prospect	(+)1,250.00
	6,250.00
	<u> x 12 </u>
	75,000.00
Less: 1/4 th personal expenses	(-)18,750.00
	56,250.00
Multiplier of 14 to be used	<u> (x) 14 </u>
	7,87,500.00
Collective heads of General damages	(+) 70,000.00
	8,57,500.00
Less: Awarded amount	(-) 4,08,000.00
Differential amount	<u>4,49,500.00</u>

The claimants acknowledge receipt of the entire awarded amount of Rs. 4,08,000/- along with interest. The balance amount of Rs. 4,49,500/- would become payable to the claimants by the Insurance Company together with interest assessed @ 6 per cent per annum, 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 claimants. Advocate for the claimants will forward the bank account details of the claimants within a fortnight from date to the 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.

There shall be no order as to costs.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)