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(Via Video Conference)

F.M.A. 135 OF 2021

**Jahanara Bgum & Ors.
Vs.
National Insurance Company Ltd.**

Mr. Subhankar Mandal

...For the Appellants/
Claimants

Mr. Afroze Alam

...For the Respondent/
Insurance Co.

This instant appeal case filed by the claimants against award/Judgment dated 29.11.2019 passed by M.A.C. Tribunal, 1st Court, Howrah Court in M.A.C. Case No. 325 of 2005 on a claim under Section 166 of the Motor Vehicles Act, 1988 for the accidental death of Kazi Ali Hossain on 02.03.2005 who left behind widow, sons and daughters.

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 appellants/claimants submit that the learned tribunal committed error in law while granting of compensation, considered the net income of the victim. Provident Fund amount Rs.2950/- per month deducted from the monthly income of the deceased but the Hon'ble Apex court held in ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680*** that while calculating annual income of the deceased, the

Court shall consider actual income less tax components of the deceased. Therefore, monthly income of the deceased is assessed Rs.7087/- after deducting p. tax component.

Be that as it may, considering the submissions of the parties as well as decision passed in *Pranay Sethi & Ors.* (supra) the award passed by the Tribunal is modified and recalculated as follows:

Monthly income of deceased	Rs.7,087/-
Annual Income	Rs.85,044/-
Add: Future prospect 15%	Rs.12,756/-
Total annual income	Rs.97,800/-
Less personal expenses (1/4 th)	Rs.24,450/-
Annual loss of dependency	Rs.73,350/-
Multiplier 11 (Rs.73,350/ x 11)	Rs.8,06,850/-
Add: General Damages	Rs.70,000/-
Total compensation =	Rs.8,76,850/-

The appellants also submit that they have received the awarded amount of Rs.4,88,704/- along with interest from the insurance company. Therefore, balance amount of Rs.3,88,146/- shall be paid by the respondent insurance company along with 6% interest from the date of filing till payment to the claimants within 30 dates of receipt of particulars of their bank accounts to be supplied by his counsel to the counsel for the insurance company.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as ordered by the Court below.

With the aforesaid directions, the instant appeal stand disposed of. Accordingly connected application is also 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.)