Ct. No. 26

3 & 4

akb

24.9
2021

F.M.A. 1401 of 2016
National Insurance Co. Ltd.
Vs.
Anjum Khatun & Ors.
With
C.O.T. 13 of 2017
Anjum Khatun & Ors.
Vs.
National Insurance Co. Ltd.
(Via Video Conference)

Mr. Parimal Kumar Pahari ...For the Appellant/Insurance Co. & Respondent in COT 13 of 2017

Mr. Ali Imam Shah ...For the Respondents/Claimants & Appellants in COT 13 of 2017

By consent of the parties, both the appeals are taken up for hearing analogously by treating the cross appeal, being COT 13 of 2017, as on day's list.

The concerned Department is directed to trace out and tag the said cross appeal along with this appeal, being FMA 1401 of 2017.

The appeal is directed against the judgment and award dated August 31, 2015 passed by the learned Judge, Motor Accident Claim Tribunal, learned Additional District & Sessions Judge, Fast Track Court, Durgapur, in M.A.C. Case No. 89 of 2012 / 76 of 2012 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one Md. Nasiruddin in a road accident dated April 04, 2012.

Learned Counsel for the appellant Insurance Company submits that the learned Tribunal committed error in law while awarding compensation in the instant case by considering the yearly income of Rs.2,77,424/- without deducting the income tax therefrom.

He further submits that the learned Tribunal committed error in law by adding 30% income of the deceased victim as future prospect but did not deduct personal expenses from the said additional income as future prospect.

In reply Mr. Ali Imam Shah, learned Counsel for the respondents/claimants submit that the learned Tribunal committed an error in law in not granting 50% additional income towards 'future prospect' as the deceased had a permanent job, he was an employee of Durgapur Steel Plant and he was 39 years 3 month and 5 days at the time of accident.

In view of the law as it stands now, after the decisions pronounced by the Hon'ble Apex Court in cases of ***Smt. Sarala Verma & Ors. -Vs.- Delhi Transport Corporation & Anr.***, reported in **(2009) 6 SCC 121** and in the case of ***National Insurance Company Limited -Vs.- Pranay Sethi & Ors.,*** reported in **(2017) 16 SCC 680**, the claimants are entitled to 50% additional income as 'future prospect' of the deceased.

Therefore, the impugned award is thus modified and recalculated as stated hereinafter :

Annual Income (2,28,804-P.Tax 1380-Income Ta)	**Rs. 2,24,928/-**
50% Additional income toward future prospect	**Rs. 1,12,464/-**
Total Income	**Rs. 3,37,393/-**
1/3rd deduction for personal Expenses	**Rs. 1,12,464/-**
Contribution to his family	**Rs. 2,24,928/-**
Use Multiplier (15) for 36 to 40 years	**Rs. 33,73,932/-**
Loss of Consortium	**Rs. 40,000/-**
Loss of Estate	**Rs. 15,000/-**
Funeral Expenses	**Rs. 15,000/-**
Total Compensation	**Rs. 34,43,932/-**

The compensation amount of Rs.34,43,932/- (Rupees thirty-four lakhs forty-three thousand nine hundred and thirty-two only) shall carry interest at the rate of 6% per annum on and from the date of filing of the claim application till the date of payment.

Mr. Pahari, learned Counsel appearing for the appellant/Insurance Company submits that his client has deposited a sum of Rs.45,93,267/- with the learned Registrar General, High Court, Calcutta and the same has been invested in a nationalised bank in short term auto renewal basis.

Learned Counsel for the claimants admit that the claimants had withdrawn 50% of the total amount deposited by the Insurance Company without furnishing any security.

In light of the above submissions, the respondents / claimants shall furnish particulars of their respective bank accounts with the Registrar General of this Court as expeditiously as possible. Upon receipt of such details, the Registrar General is directed to pay the balance amount along with accrued interest to the claimants / respondents in accordance with law in the same manner and proportion of the award as decided by the Court below within a period of four weeks by way of NEFT/RTGS in their respective banks.

The Registrar General shall check the veracity of the bank account and the identity of the claimants/respondents before disbursing the amount.

With the aforesaid directions, the instant appeal being F.M.A. 1401 of 2016 shall stand disposed of.

Consequently, the Cross Objection of the claimants, being COT 13 of 2017 is accordingly disposed of.

There shall be no further order as to costs.

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.

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.)