Ct. No. 26

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F.M.A.T. 405 of 2010

With

IA No. CAN 1 of 2013 (Old No. CAN 8040 of 2013)

Smt. Kalpana Malik @ Malick & Anr.

Vs.

National Insurance Co. Ltd. & Anr.

(Via Video Conference)

Mr. Krishanu Banik ...**For the Appellants/Claimants**

Mr. Rajesh Singh ...**For the Respondent/Insurance Co.**

The appeal is directed against the judgment and award dated May 21, 2009 passed by learned Judge, Motor Accident Claims Tribunal, 5th Fast Track Court, Barasat, North 24 Paraganas, in M.A.C Case No. 78 of 2008.

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 claimants were not granted any amount under 'future prospect'. Claimants also pleaded that they were erroneously given only Rs.7,000/- instead of Rs.70,000/- under the full component of 'general damages'. Lastly, claimants submit that the learned Judge erred in not granting 'interest' on the compensation amount. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

Per contra, the learned Counsel representing the Insurance Company argues that the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the decisions of the Hon'ble Supreme Court in the cases 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,** I find substance in the arguments of the appellants. Appellants are justified in praying for 40% 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. Moreover, in terms of section 171 of the Motor Vehicles Act, 1988 the claimants are entitled for interest on the compensation amount. Appellants however admit that in the instant case, the appropriate multiplier should have been '15' and the Tribunal erred in adopting '16' as the multiplier. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter:-

Monthly Income	**Rs. 3,000/-**
Annual Income	**Rs. 36,000/-**
Less 1/3rd for personal expenses (Rs.12,000/-)	**Rs. 24,000/-**
Add 40% future prospect (Rs.9,600/-)	**Rs. 33,600/-**
Multiplier '15'	**Rs.5,04,000/-**
Add 'General Damages'	**Rs. 70,000/-**
TOTAL Principal Compensation	**Rs.5,74,000/-**
LESS – awarded by Tribunal and paid by Insurer	**Rs.3,91,000/-**
BALANCE (enhancement)	**Rs.1,83,000/-**

The claimants acknowledge receipt of the awarded amount of Rs.3,91,000/- along with interest. Accordingly, the balance enhanced sum of Rs.1,83,000/- 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. If it is found that claimants did not receive any interest on the already awarded and paid amount of Rs.3,91,000/-, Insurer shall pay interest on the said amount at the same rate of 6% as directed above, from the date of filing of claim application till the date of payment.

Learned Counsel for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Counsel for the Insurance Company. The payment shall be made in the same manner and proportion as 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 shall be no further order as to costs.

LCR, if any, may be returned back to the court below.

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.)