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(Via Video Conference)

F.M.A. 312 of 2019
with
I.A. No. CAN 1 of 2020
(Old No.CAN 2507 of 2020)

Reshmita Lakra Tirkey & Ors.
Vs.
The National Insurance Co. Ltd. & Ors.

Mr. Sidur Rahaman
...For the Appellants/ Claimants

Ms. Sucharita Paul
...For the Respondent/ Insurance Company

It appears to this Court that the instant appeal has been filed out of statutory period. On the oral prayer of the parties, this Court is satisfied and condones the delay in filing the instant appeal.

The above appeal has been filed against the judgment and order dated June 7, 2018 passed by the Learned Additional District & Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur, in M.A.C Case No. 93 of 2017, on a claim under section 166 of the Motor Vehicles Act, 1988.

The claimants submit that the tribunal erred in not awarding future prospect on the income of the deceased. In view of the law as it stands now, after the judgments 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, the claimants are entitled to 40% as future prospects.

The Insurance Company is represented.

This Court is inclined to accept the submissions made on behalf of the appellants. Accordingly, the impugned award is modified and recalculated and the claimants are found entitled to a total amount of Rs.6,74,800/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the receipt of payment as indicated more fully hereafter.

The monthly income of the victim is taken to be Rs. 3,000/- per month, as accepted by the Court below. Upon adding 40% as future prospect and annualizing the same, the figure comes to Rs. 50,400/-. After deducting 1/4th as personal expenses, it is the amount of Rs. 37,800/- on which a multiplier of 16 would be applied. Thus, the net pecuniary compensation comes to Rs. 6,04,800/-. After adding Rs. 70,000/- on account of loss of estate, funeral expenses and loss of consortium, the gross compensation comes to Rs. 6,74,800/- 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 entire awarded amount along with interest. The balance sum of Rs.1,72,800/- would become payable to the appellants 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.

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.)