

S/L 4
29.7.2021
Court No.26
SD

FMAT 395 of 2009
With
CAN 1 of 2017
(Old CAN 3840 of 2017)
(Via Video Conference)

Aleya Begam & Ors.
Vs.
National Insurance Co. Ltd. & Anr.

Mr. Ali Imam Shah
Mr. Jayanta Kumar Mondal
...for the Appellants/Claimants.
Mr. Rajesh Singh
...for the Respondent/Insurance Co.

The instant appeal is directed against the judgment and award dated December 23, 2008 passed by the learned Judge, Motor Accident Claims Tribunal, 5th Court, Burdwan in M.A.C. case no. 81 of 2007/341 of 2007 on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 57 years old 'Abdul Hamid Molla' in a road accident dated July 15, 2007.

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 they were not granted any amount under 'future prospect'. Claimants took the plea that the learned Judge erred in applying the multiplier of '3' for the 57 years old deceased. Lastly, claimants submit that they were given only Rs.9,500/- instead of Rs.70,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the counsel representing the insurance company argues that in the facts and circumstances of the

case, the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgments 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 15% addition on account of 'future prospect' on the income of the deceased. Deceased being 57 years old, the appropriate multiplier of '9' should have been applied in the instant case. Claimants were also entitled to Rs.70,000/- under collective heads of general damages.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	Amount (Rs.)
Net Monthly salary	Rs.20,553/-
Annual salary	Rs.2,46,636/-
Add 15% future prospect (Rs.36,995/-)	Rs.2,83,631/-
Less 1/3 rd for personal expenses (Rs.94,543/-)	Rs.1,89,088/-
Multiplier '9'	Rs.17,01,792/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.17,71,792/-
LESS – awarded by Tribunal and paid by insurer	<u>Rs.5,02,772/-</u>
BALANCE (enhancement)	<u>Rs.12,69,020/-</u>

The claimants acknowledge receipt of the awarded amount of Rs.5,02,772/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.12,69,020/- 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. 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 to the claimants' bank accounts directly, in the proportion decided by the Court below.

With the aforesaid directions, both the appeals are 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.)