Ct. No. 26

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F.M.A. 972 of 2012
(Via Video Conference)
Smt. Anima Manna & Ors.
Vs.
United India Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy ...**For the Appellants/Claimants**

Ms. Sucharita Paul ...**For the Respondent/Insurance Co.**

The above appeal has been filed by the claimants, against the judgment and award dated February 04, 2012, passed by the learned Member, Motor Accident Claims Tribunal, (Redesignated), Court, Bankura, in M.A.C. Case No. 11 of 2011 / 53 of 2010.

The 49 years old victim was working as a Police Constable. Accordingly, the claimants are entitled to 30% on account of future prospects of the victim and Rs.70,000/- under the collective heads of general damages in view of the law as it stands now after the judgments delivered by the Hon'ble Supreme Court in the cases of ***Smt. Sarala 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**. However, learned Tribunal erred in not allowing the same. The appellants further submit that the learned Court below erred in deducting a total sum of Rs.96,000/- on account of family pension received by the family of the deceased.

Learned Counsel for the Insurance Company is represented.

This Court finds justification in the arguments made by the appellants. Hon'ble Supreme Court has made it amply clear in the case of ***Mrs. Helen C. Rebello Vs. Maharastra***

State Road Transport Corporation, reported in (**1991) 1 SCC 90** that the amount received by the claimants through family pension is not deductable from the compensation assessed under the Motor Vehicle Act, 1988. The observations made in the case of ***Helen C. Rebello (Supra)*** has been upheld in a number of other judgments by Hon'ble Supreme Court. Therefore, claimants are entitled to the amount of Rs.96,000/- which has been deducted by the Tribunal as family pension.

The impugned award is thus modified and the claimants are found entitled to a total sum of Rs.27,47,636/- 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 income of the victim appears to have been Rs. 19,805/- per month. Thus, his annulized income would be Rs.2,37,660/-. After deducting 1/3rd from such figure on account of personal expenses of the victim and adding 30% as future prospect, it is the figure of Rs. 2,05,972/- on which a multiplier of 13 is to be applied. Accordingly, the net pecuniary compensation comes to Rs.26,77,636/-. The appellants are also entitled to Rs.70,000/- on the collective heads of general damages. Thus, the gross compensation comes to Rs. 27,47,636/- together with interest at the rate of 6% per annum as indicated above.

The claimants acknowledge receipt of the entire awarded amount minus interest. The balance sum of Rs.19,06,366/- 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 the Advocate 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 application, if any, is also disposed of. The concerned Department is directed to tag the application, if any, with this appeal.

There will be no order as to costs.

L.C.R., if any may be returned back to the Court below.

Urgent photostat copy of the order, if applied for, be supplied to the petitioner on priority basis on compliance of necessary formalities.

(Shekhar B. Saraf, J.)