16.09.2021
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F.M.A. 668 of 2021
(Via Video Conference)

Shatabdi Majumdar (Das) & anr.
Vs.
The Oriental Insurance Co. Ltd. & anr.

Mr. Muktakesh Das
...For the Appellants/claimants

Mr. Rajesh Singh
... For the respondent No.1/ Insurance Co.

The above appeal has been filed by the claimants against an award dated December 24, 2019 passed by the learned Member, Motor Accident Claims Tribunal cum Additional District Judge, 5th Court, Krishnagar, Nadia in MAC Case No. 49 of 2016 in a claim under Section 163A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the said Act').

The appellants submit that the notional income of the victim should have been taken to be Rs.3,000/- per month instead of Rs.15,000/- per annum. The appellants also rely on the dictum in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & anr.,** reported in **(2009) 6 SCC 121** and affirmed in the case of **Reshma Kumari & ors. Vs. Madan Mohan & anr.,** reported in **2013) 9 SCC 65,** to suggest that the appropriate multiplier in the instant case should be 20 and not 15 as applied by the learned Tribunal. The claimants also plead that the learned Judge erred in granting interest only under default clause. It is the case of the appellants that 'interest' should be given from the date of filing of claim application.

Mr. Singh, learned Advocate appearing on behalf of the insurance company opposes the submissions made by the appellants on the point of income and submits that since victim was a 4-year old minor, the notional income of the said victim cannot be taken to be Rs.3,000/- per month. He further submits that the learned Tribunal rightly assessed the compensation amount on the basis of notional income of Rs.15,000/- per annum. Mr. Singh states that the total sum awarded under the collective heads of general damages should have been restricted to Rs.4,500/- only, in view of the second schedule under Section 163A of the said Act.

This Court finds substance in the arguments made by the insurance company on the point of income of the victim and holds that the tribunal had rightly taken the notional income of the 4-year old victim at Rs.15,000/- per annum in accordance with second schedule under Section 163A of the said Act, for assessing the compensation amount. Similarly, the argument of the insurer regarding non-pecuniary expenses being restricted to Rs.4,500/- is also accepted.

On the other hand, the appellants are correct in submitting that in the instant case, a multiplier of '20' should have been applied. The prayer of the appellants for granting of 'interest' from the date of filing of claim case is also allowed.

Accordingly, after considering the submissions as advanced by the learned Advocates for the parties, the impugned award is modified and recalculated as follows :-

Particulars		Amount
Annual income		Rs.15,000/-
Less : 1/3rd for personal expenses (Rs.5,000/-)		Rs.10,000/-
Multiplier '20' (Rs.10,000/- X 20)		Rs.2,00,000/-
Add : General damages	(+)	Rs.4,500/-
Total principal compensation		Rs.2,04,500/-
Less : Awarded by Tribunal and Paid by the insurer		Rs.1,54,500/-
Balance (enhancement)		Rs.50,000/-

The claimants acknowledge receipt of the awarded amount of Rs.1,54,500/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.50,000/- would become payable to the appellants by the insurance company, together with interest assessed at the rate of 6% per annum on and from the date of filing of claim application within a period of 45 days from the date of receipt of the bank account particulars of the appellants.

The appellants had submitted that they did not receive any interest on the awarded amount of Rs.1,54,000/- which has already been paid by the insurer.

In light of the above, insurance company is directed to pay interest at the similar rate of 6% per annum on the said awarded amount of Rs.1,54,500/- from the date of filing of claim case till payment.

Learned Advocate for the claimants will forward the bank account details of the claimants within a fortnight from date to the learned Advocate for the insurance company.

It is made clear that payments shall be made by NEFT/RTGS in the proportion as ordered by the learned Court below.

With the aforesaid directions, the instant appeal is disposed of. There shall be no order as to costs.

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 the main appeal.

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.)