

Ct. No. 26
6
akb

**07.7
2021**

F.M.A. 3617 of 2016
With
IA No. CAN 1/ 2017 (Old No. CAN 5562 of 2017)
(Via Video Conference)
Kajal Pradhan & Ors.
Vs.
The National Insurance Co. Ltd. & Anr.

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

Mr. Samim Ahammed ...For the Respondent/Insurance Co.

The claimants are in the Instant appeal, complaining of the inadequate compensation granted in the judgment and award passed by the learned Additional District & Sessions Judge, 3rd Court, Tamruk, Purba Medinipur, in M.A.C. Case No. 148 of 2014 / M.A.C. Case No. 129 of 2014.

The claimants in the instant appeal have raised mainly two points. It is submitted on behalf of the appellants that the monthly income of Rs. 3,900/- of the victim considered for by the learned Judge was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Accordingly, it was argued that a lesser quantum of compensation has been erroneously awarded by the Tribunal.

Considering 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., and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. For the year 2013, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 4,000/-

per month does not appear to be exorbitant.

Similarly, appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased in respect of age 32 years. The appellants however submit that the total component of General Damages, in the instant case should be Rs. 70,000/- instead of Rs. 55,000/- as granted by the Court below and the correct multiplier would be 16 instead of 17 as used by the Tribunal. The appellants further submit that the Tribunal awarded Rs.18,180/- as medical bill.

The impugned award is thus modified and the claimants are found entitled to a total sum of Rs.2,23,900/- together with interest thereon at the rate of 6 per cent per annum from the date of lodging of the claim till the receipt of the payment as indicated more fully hereafter.

Taking the monthly income of the victim to be Rs.4,000/-, the annual income comes to Rs.48,000/-. By adding 40% future prospect and deducting one-third on account of personal expenses, it is the figure of Rs.44,800/- on which the multiplier of 16 will have to be applied. The net pecuniary compensation comes to Rs.7,16,800/-. The appellants are also entitled to general damages of Rs.70,000/- on account of loss of consortium, loss of estate and funeral expenses along with appellants are entitled to get Rs.18,180/- as medical expenses, taking the gross compensation to Rs.8,04,980/-, together with interest thereon at the rate of 6 per cent per annum on and from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge receipt of a sum of the entire awarded amount of Rs.5,81,080/- along with interest.

The balance sum of Rs.2,23,900/- 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.

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 by the Insurance Company in the same manner and proportion as decided by the Court below.

It is needless to mention, the appellant No. 2 is being minor, accordingly, appellant No. 1 will deposit the minor's share in long term fixed deposit scheme to any nationalized bank till attainment of majority, for her future.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, connected application, if any, is also disposed of. The concerned Department is directed to trace out the application and tag the same with this appeal.

There shall be no 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.)