

23.08.2021

ss

F.M.A.T. 339 of 2021

(Via Video Conference)

Smt. Mithu Saha & anr.

Vs.

National Insurance Co. Ltd. & anr.

Mr. Muktakesh Das

...For the Appellants/claimants

Mr. P. K. Pahari

... For the respondent No.1/Insurance Co.

Stamp reporter's report dated June 28, 2002 is ignored and the appeal is regularised.

This instant appeal filed by the claimants against the award and/or judgement dated 26.03.2021 passed by the Learned Additional District Judge cum Motor Accident Claims Tribunal, 1st Court Nadia at Krishnagar in M.A.C. Case No.85 of 2011 on a claim under Section 166 of Motor Vehicles Act, 1988 for the accidental death of Biswanath @ Partha Saha on 21.12.2010.

The fact of the case are not in dispute.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Learned Advocate for the appellants/claimants submits that the learned Tribunal committed error in law while not granting 40% additional income towards future prospect since the deceased was 19 years old self employed person. Learned Advocate for the appellants/claimants submits that the learned Tribunal also committed error in law while granting Rs.70,000/- instead of Rs.30,000/- towards general damages. Learned

Advocate for the respondent/Insurance Company submits that the learned Tribunal is just while assessing monthly income of the deceased as Rs.4,000/- since the claimants failed to produce any cogent evidence before the Tribunal to establish the monthly income of the deceased.

Be that as it may, considering the rival submissions of the parties as well as observations of the Hon'ble Supreme Court in the case of **Smt. Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.**, reported in **(2009) 6 SCC 121** as well as in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors.**, reported in **(2017) 16 SCC 680**, as well as general practice of our High Court, above award passed by the Tribunal below is modified and recalculated as follows :

Monthly income	Rs.4,000/-
Annual Income	Rs.48,000/-
Add. Future prospect 40%	Rs.19,200/-
Total Income	Rs.67,200/-
Less Personal Expenses ½ (Bachelor)	Rs.33,600/-
Annual loss of dependency	Rs.33,600/-
Multiplier 18 (Rs.33,600 X 18)	Rs.6,04,800/-
Add. General Damages (Rs.15000/- for Funeral Exp. + Rs.15000/- for Loss of Estate)	Rs.30,000/-
Total Compensation	Rs.6,34,800/-

The appellants also submit that they have received the awarded amount of Rs.6,10,000/- along with interest from the date opening of evidence that from the month of January, 2020 till realization of the amount.

a) Therefore balance enhanced sum of Rs.24,800/- would become payable to the appellants by the Insurance Company together with interest assessed @ 6% per annum on and from the date of filing claim petition on 08.03.2011 till the date of realization.

b) The appellants/claimants would also be entitled interest on the awarded amount of Rs.6,10,000/- assessed @ 6% per annum on and from the date of filing of the claim petition on 08.03.2011 till the year 31.12.2019.

The enhanced compensation together with interest as stated above (a+b) is to be paid by the Insurance Company to the claimants within a period 30 days of receipt of particulars of their bank accounts to be supplied by their counsel to the counsel for the Insurance Company.

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

With the aforesaid directions, the instant appeal bearing is disposed of.

There will be no order as to costs.

Urgent Photostat certified copy of this order, if applied for be given to the parties upon compliance of all formalities.

(Shekhar B. Saraf, J.)