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(Via Video Conference)

F.M.A. 1669 OF 2019

Ashalata Ghosh & Ors.

Vs.

The Oriental Insurance Co. Ltd. & Anr.

Mr. Ali Imam Shah
Mr. Sk. Abbasudin.

...For the Appellants/
Claimants.

Mr. Saswata Bhattacharyya

...For the Respondent /
Insurance Co.

The appeal is directed against the judgment and award dated 14.02.2019 passed by the learned Judge, M.A.C. Tribunal, 4th Court, Burdwan in M.A.C. Case No. 40/36/141 of 2017/2016/2016 in a claim under section 166 of the M.V. Act 1988 for the death of Sushanta Ghosh in road accident occurred on 05.11.2014.

The claim was filed under Section 166 of the M.V. Act, 1988.

Learned advocate for the appellants/claimants submits that the tribunal committed error in law while assessing the monthly income of the deceased.

Learned advocate for the respondent/insurance company submits that the award passed by the tribunal is absolutely just and there is no scope of any further enhancement of the award.

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., and also following the practice of this Court on the point of monthly income, I find substance in the arguments of the appellants/claimants. Since the accident occurred in the year 2017, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.4,000/- per month as income of the victim does not appear to be exorbitant. The appellants/claimants are justified in praying for 25% additional income on account of 'future prospect' on the income of the deceased since the deceased was 44 years old and the general damages shall be taken to Rs.70,000/- instead of Rs.7,500/-.

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

Particulars	Amount (Rs.)
Monthly Income	4,000/
Annual Income (x 12)	48,000/
Add future prospects 25%	12,000/
Annual income	60,000/
Less 1/3rd deduction towards personal expenses	20,000/
Multiplier 14	5,60,000/
General damages	70,000
Total compensation	6,30,000/

Mr. Shah acknowledges that the appellants/claimants have already received the awarded sum of Rs.5,20,000/ together with interest that has been paid by the insurance company, the differential amount comes to Rs.1,10,000/ together with interest @6% per annum from the date of filing of claim application till payment which shall be paid to the appellants/claimants in the same manner as indicated in the award within 45

days of receipt of the particulars of their bank account details to be supplied by their advocate to the advocate for the insurance company.

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

Accordingly, with the aforesaid directions the instant appeal is disposed of.

In view of the disposal of the appeal, connected applications, if any, are also disposed of. The department concerned is directed to tag the applications, if any, with the main appeal.

The department is directed to send down the lower court records, if arrived, immediately.

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.)