

09.07.2021

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F.M.A.T. 394 of 2019

I.A. CAN 1 of 2019 (old No.CAN 4550 of 2019)

I.A. CAN 2 of 2020

(Via Video Conference)

Sumita Majumder (Das)

Vs.

The New India Assurance Co. Ltd. & anr.

Mr. Nilanjan Pal

...For the Appellant/claimant

Mr. Rajdeep Bhattacharya

... For the respondent No.1/

The New India Assurance Co. Ltd.

The claimant is in appeal, complaining of the inadequate compensation granted by the Tribunal in its Judgement dated February 19, 2019 passed by the Learned Judge, Motor Accident Claims Tribunal cum Additional District & Session Judge, 2nd Court at Barrackpore, North 24 Parganas in M.A.C. Case No. 19 of 2015, on a claim under Section 166 of the Motor Vehicles Act, 1988 in respect of an accident that took place on 30-04-2015.

The appellant states that the victim who was an employee of Zenith Super Specialist Hospital, died at the age of 47 years. The Claimant states that her husband used to Rs.5,200/- per month but the Learned Tribunal held it Rs.3,000/- per month. Learned Advocate for the claimant states that for some time, it has been the practice of this Court to take the basic income upto the year 2010 as Rs.3,000/- and from 2011 to 2014, it would

be Rs. 4,000/- and from 2015 onwards it would be Rs.5,000/-. Since unskilled workers were capable to earning such amount per month when working most of the days. The appellant further points out that the claimant is also entitled to 25% on account of future prospects and Rs.70,000/- under collective heads of general damages in view of the law as it stands now after the judgments of the Hon'ble Apex Court in **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. However, Learned Tribunal erred in not allowing the same.

The insurance company is represented.

The impugned award is modified and the claimant is found to be entitled to a total amount of Rs.7,20,000/- 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 gross income of the victim appears to have been Rs.60,000/- per annum. After deducting one-third from such figure on account of personal expenses, the net yearly income comes to Rs.40,000/-. On such amount, a multiplier of 13 is applied as the victim is between the age group of 45 to 50 years and 25% is added on account of future prospect since the victim was from private service and between age group of 45 to 50 years, thus, taking the

amount to Rs.6,50,000/-. Upon adding Rs.70,000/- on account of collective heads of general damages, the gross amount comes to Rs.7,20,000/- together with interest at the rate of 6% per annum as indicated above.

The claimant states that the Learned Tribunal has awarded a sum of Rs.2,43,500/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim i.e. 10.12.2015. The claimant further submits that the claimant has not withdrawn the cheque from the Tribunal and its validity has also expired in the meantime. In view of the same, the claimant is granted liberty to take appropriate steps as per law before the Tribunal. The balance sum of Rs.4,76,500/- would become payable to the appellant 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 appellant through NEFT/RTGS. The counsel for the claimant is directed to furnish the bank particulars of the claimant to the counsel for the insurance company within a week. The Insurance Company is granted liberty to realize the amount from the owner as per law. The payment shall be made in the proportion decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

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

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, on priority basis.

(Shekhar B. Saraf, J.)