30.11.2021
Item No.60
Ct. No.7
CHC
(disposed of)

F.M.A.181 of 2021
(Physical Hearing)

Sabeda Bibi & ors.
Vs.
The New India Assurance Company Limited & anr.

Mr. Jayanta Kumar Mandal,
Mr. Sayantan Rakshit
…for the appellants/petitioners

Mr. Sanjay Paul
…for the respondent no.1/
Insurance Company

The appeal has emerged out against the judgement and award dated 22nd day of August, 2016, passed by learned Judge, Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-I, at Barrackpore, in M.A.C. Case No.28 of 2014 on a claim case under Section 166 of the M.V. Act, 1988, granting award to the tune of Rs.6,05,516/- to dependents/claimants/appellants of the deceased namely, Rabiul Haque Mallick for a vehicular accident occurred on 3rd day of October, 2011, by reason of involvement of vehicle bearing No.WB-37A/9379 in consequence of rash and negligent driving.

Primarily, three grounds are urged to challenge the impugned award alleging its inadequate quantification by the Tribunal.

Mr. Mandal, learned advocate representing the appellants/claimants submits that the learned Tribunal has committed error in law by not granting 15% additional income towards future prospects of the deceased, since the deceased was 57 years old and engaged in permanent employment under the West Bengal State Electricity Distribution Company Limited.

As regards the second point urged by Mr. Mandal, it is submitted that deduction towards personal expenses of the deceased has been erroneously made upon deducting 1/3rd instead of 1/4th income of the deceased towards personal expenses.

So far as the last point is concerned, according to Mr. Mandal, there has been erroneous selection of multiplier thereby assessing the compensation upon selecting 3 (three) as multiplier, instead of 9 (nine) merely upon consideration of the remaining period of service of the deceased. Incidentally, it also brought to the notice of the Court that the learned Tribunal, though granted Rs.9,500/- as damages, but it ought to have been Rs.70,000/- within the collective head pertaining to damages component.

Mr. Paul, learned advocate representing the respondent respondent.1/Insurance Company submits that the learned Tribunal has rightly decided the award after considering the pros and cons of the case.

Thus according to Insurance Company/respondent no.1, there lies nothing to be interfered with in this appeal. There is no scope even for making any modification of the award.

Facts involved leading to the death of the deceased are not disputed.

Considering the rival submission of the parties and the proposition of law decided by the Apex Court in cases 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,** as well as general practice and precedent of our Court, the above award passed by the learned Tribunal needs modification, so as to make it just and perfect, and with this modification there will be no prejudice caused to either of the parties to this case.

It is well settled law that as per age of the victim, 15% additional income towards future prospect has to be added, and as such the deduction towards personal expenses of the victim shall be 1/3rd,.

As regards the selection of multiplier, the proposition of law already decided by the Apex Court is that multiplier should be selected keeping in view the age of the deceased, irrespective of the remaining period of service available to the deceased victim. In that view of the matter, the appropriate multiplier shall be 9.

Though general damages to the tune of Rs.9500/- have been awarded, it should be Rs.70,000/- to cover the damages component.

Accordingly, the above order passed by the learned Tribunal is thus modified to the extent mentioned hereinbelow and recalculated as follows:

Particulars	**Amount (Rs.)**
Monthly Income	Rs.24,834/-
Annual income [Rs.24834/- X 12]	(+)Rs.2,98,008/-
Less:1/3rd deduction personal expenses	(-)Rs.99,336/-
Annual income after Deduction	Rs.1,98,672/-
Add 15% future prospect	(+)Rs.29,800/-
Total loss of Annual dependency	Rs.2,28,472/-
Multiplier of 9 to be used	(x) 9
	Rs.20,56,248/-
General Damages	(+) Rs.70,000/-
Total compensation	**Rs.21,26,248/-**

Mr. Mandal acknowledges that his clients have already received a sum of Rs.6,05,516/- together with interest in compliance with the award. Therefore, the insurance company is directed to pay the balance sum of Rs.15,20,732/- together with interest @6% per annum from the date of filing of claim application till payment within a period of 45 days from the date of communication of the instant award. The insurance company is directed to issue cheques in the name of the claimants/appellants in the same proportion as indicated in the impugned award and to deposit the same before the learned Registrar General, High Court, Calcutta.

The office of the learned Registrar General is directed to distribute those cheques to the claimants upon proper verification of their identity with four weeks from date of deposit of cheques by the insurance company.

With the above observation, the appeal is thus 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, on priority basis.

(Subhasis Dasgupta, J.)