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(Via Video Conference)

F.M.A.T 423 of 2019

Jogmaya Ghosh & Anr.
Vs.
United India Insurance Co. Ltd.
Krishnagar Branch Office & Anr.

Mr. Muktakesh Das
...For the Appellants/
Claimants

Mr. Rajesh Singh
...For the Respondent/
Insurance Co.

The appeal is directed against the judgment and order dated December 11, 2017 passed by MAC Tribunal, Additional District Judge, 5th Court, Nadia, in M.A.C Case No. 683 of 2008, on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 'Rabi Ghosh' in a road accident dated February 27, 2008.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that Ld. Judge erred in not granting 'future prospect' and it also went wrong in adopting the multiplier of '15' for the 34 years old deceased, as the correct multiplier should be of '16' purchase factor. It was pleaded that instead of Rs.70,000/- the claimants were awarded only Rs.15,000/- under 'general damages'. Lastly, claimants urged that Ld. Tribunal erred in not granting the interest from the date of filing of claim application. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

The Insurance Company is represented.

Considering the judgements 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, I find substance in the arguments of the appellants. Appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.70,000/- under collective heads of general damages. The appropriate multiplier of '16' is to be applied for assessment of compensation amount. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

The income of the victim being Rs.3,000/- per month, upon annualizing, comes to Rs.36,000/-. The addition of 40% 'future prospect' brings it to Rs.50,400/-. For 'personal expenses', 1/3rd is deducted and then it is the amount of Rs.33,600/- on which the multiplier of 16 is applied to reach the net pecuniary compensation of Rs.5,37,600/-. Claimants are also entitled to Rs. 70,000/- on account of collective heads of general damages, taking the gross compensation to Rs.6,07,600/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge receipt of the awarded amount of Rs.3,75,000/-. Accordingly, the balance enhanced sum of Rs.2,32,600/- would become payable to the appellants by the insurance company. On the total compensation amount, claimants would also be entitled to interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition till the date of respective payments. The enhanced compensation together with interest as stated above, is to be paid by the insurer within a period of 45 days from the date of receipt of the bank account particulars of the appellants. Advocate for the Appellants will forward the bank account details of the appellants within a fortnight from date to Advocate for the insurance company. 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 department concerned is directed to tag the applications, if any, with the main appeal

The department is directed to send down the LCR.

Photostat certified copy of this order, if applied for, be furnished upon compliance of all formalities.

(Shekhar B. Saraf, J.)