14.07.2021
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(Via Video Conference)

F.M.A. 351 of 2021

Mina Bibi & anr.

Vs.

United India Insurance Co. Ltd. & anr.

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

Mr. Rajesh Singh
...For the Respondent no.1/Insurance Co.

The appeal is directed against the judgment and order dated December 20, 2018 passed by learned Judge, Motor Accident Claims Tribunal, Fast Track 3rd Court, Nadia at Krishnagar in M.A.C Case No. 183 of 2016, on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 26 years old bachelor 'Ibrahim Sheikh' in a road accident dated April 27, 2016.

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 the monthly income of Rs.3,000/- of the victim, considered for by the learned Judge was inadequate. Further, the claimants also pleaded that they were not granted any amount under 'future prospect'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Mr. Singh, the learned Advocate appearing on behalf of the insurance company submits that the learned

Tribunal was correct in accepting the income of the victim to be Rs.3,000/- in absence of any documentary evidence.

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** and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. For the year 2016, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. Appellants are also justified in praying for 40% addition on account of 'future prospect' on the income of the deceased. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Monthly Income	Rs.5,000/-
Add 40% future prospects (Rs.2,000/-)	Rs.7,000/-
Annual Income	Rs.84,000/-
Less 50% for personal expenses (Rs.42,000/-)	Rs.42,000/-
Multiplier '17'	Rs.7,14,000/-
Add 'General Damages'	Rs.30,000/-
TOTAL Principal Compensation	Rs.7,44,000/-
LESS – awarded by Tribunal and paid by insurer	Rs.4,58,400/-
BALANCE (enhancement)	Rs.2,85,600/-

The claimants acknowledge receipt of the awarded amount of Rs.4,58,400/- along with interest. Accordingly, the balance enhanced sum of Rs.2,85,600/- would become payable to the appellant no. 1 by the insurance company, 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 appellants. Learned Advocate for the Appellant no. 1 will forward the bank account details of the said appellant within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made only to the mother of the deceased, being appellant no. 1, as 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.)