14.07.2021
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(Via Video Conference)

F.M.A.T. 386 of 2021

Minati Rajvor Mahato @ Minati Mahato & ors.

Vs.

United India Insurance Co. Ltd. & anr.

Mr. Subhankar Mandal
...For the Appellants/claimants

Mr. Sanjay Paul
...For the Respondent no.1/Insurance Co.

The appeal is directed against the judgment and order dated 20-03-2021 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track 1st Court, Raiganj, Uttar Dinajpur in M.A.C Case No. 138 of 2018, on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 'Rupchand Mahato' in a road accident dated 13-05-2018.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Learned Advocate for the appellants/claimants submits that the learned Tribunal committed error in law while not assessing the monthly income of the deceased Rs.6,000/- instead of Rs.4,000/- on the basis of uncontroverted oral evidence as adduced by the widow of the deceased.

Learned Advocate for the appellants/claimants further submit that the learned Tribunal committed error in law while not granting 40% additional income towards future prospect since the deceased was 31 years old self employed person.

In reply, Mr. Paul, the learned Advocate for the respondent/Insurance Company submits that the award passed by the learned Tribunal is absolutely just and there is no scope of interference and/or modification of award.

Mr. Paul further submits that the learned Tribunal committed error in law while deducting $1/5^{th}$ instead of $1/4^{th}$ income of the deceased towards personal expenses since the deceased 4 dependants behind him.

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 precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. For the year 2018, 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 justified in praying for 40% addition on account of 'future prospect' on the income of the deceased. Since the deceased leaving four dependants behind him, therefore, deduction towards personal expenses of the deceased shall be $1/4^{th.}$

Accordingly, the impugned award is modified and recalculated in the manner as follows:

Particulars	Amount (Rs.)
Monthly Income	5,000/-
Annual Income (x 12)	60,000/-
40% additional income towards future prospect	24,000/-
Annual income	84,000/-
Less 1/4th deduction	21,000/-
Loss of annual dependency	63,000/-
Multiplier (16)	10,08,000/-
General damages	70,000/-
Total	10,78,000/-

The claimants acknowledge receipt of the awarded amount of Rs.6,84,400/- along with interest. Accordingly, the balance enhanced sum of Rs.3,93,600/- would become payable to the appellants 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 appellants will forward the bank account details of the appellants within a fortnight from date to learned 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.

With the aforesaid directions the instant appeal bearing F.M.A.T. No.386 of 2021 is 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.

(Shekhar B. Saraf, J.)