14.07.2021
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(Via Video Conference)

F.M.A.T. 395 of 2021

Nilmani Mandi & ors.
Vs.
National 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 09-03-2021 passed by the Learned Judge, Motor Accident Claims Tribunal, Fast Track 3rd Court, Paschim Medinipur in M.A.C. Case No. 90 of 2019 on a claim under Section 166 of the Motor Vehicles Act 1988 for the accidental death of Kanai Mandi who left behind widow and sons.

The facts of the case are not in dispute.

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.15,000/- instead of Rs.3,000/- 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 25% additional income towards future prospect since the deceased was 45 years old self employed person.

Learned Advocate for the appellants/claimants further submits that the learned Tribunal committed error in law while adopting the multiplier 13 instead of 14 since as per Aadhar card of the deceased, exhibit-6, the deceased was above 45 years but below 46 years. To substantiate such contention, learned Advocate for the appellants/claimants relied upon a judgment of Hon'ble Apex Court reported in **2015 (2) TAC 867 SC** (**Shashikala –Vs- Gangalakshamma)** wherein the Hon'ble Apex Court clarified the schedule as appended in the case of **Smt. Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.,** reported in **(2009) 6 SCC 121** and held that if the deceased was above 45 years old but below 46 years old at the time of accident then appropriate multiplier shall be 14. In the instant case as per exhibit-6 i.e. Aadhar card wherein the date of birth recorded 1972 and the accident occurred on 08.12.2017, therefore, if the date of birth of the deceased is considered as on 01.01.1972 even in that case also the age of the deceased is just below 46 years.

The Insurance Company is represented.

In turn, Mr. Paul, learned Advocate for the respondent no.1/ Insurance Company submits that the award passed by the learned Tribunal is absolutely just and there is no scope of any further enhancement of the award.

Mr. Paul further submits that the learned Tribunal committed error in law while granting Rs.77,000/- instead of Rs.70,000/- towards general damages.

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** as well as **2015 (2) TAC 867 SC** (**Shashikala –Vs- Gangalakshamma)** 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 2017, 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 25% addition on account of 'future prospect' on the income of the deceased. Since the deceased was above 45 years old but below 46 years old at the time of accident, therefore, appropriate multiplier shall be 14 instead of 13.

Be that as it may, the award passed by the Tribunal below is modified and recalculated as follows:

Particulars	Amount (Rs.)
Monthly Income	5,000/
Annual Income (x 12)	60,000/
Add future prospects 25 %	15,000/
Total income	75,000/
Less 1/3rd deduction towards personal expenses	25000/
Loss of annual dependency	50,000/
Multiplier 14	7,00,000/
General damages	70,000/-
Total	7,70,000/

Mr. Mandal, learned Advocate for the appellants/ claimants acknowledges that his clients have already received the awarded sum of Rs.3,89,000/- together with interest that has been paid by the Insurance Company, the differential amount which comes to Rs.3,81,000/- together with 6% interest from date of claim application till payment which shall be paid to the claimants in the same manner as indicated in the award within 30 days of receipt of particulars of their bank accounts to be supplied by his counsel to the counsel 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. 395 of 2021 shall stand 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.)