S/L 9
28.9.2021
Court No.26
SD

FMA 286 of 2021
(Via Video Conference)

Krishna Das & Ors.
Vs.
United India Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy
... for the Appellants/Claimants.
Mr. Parimal Kumar Pahari
... for the Respondent/Insurance Co.

This appeal is directed against the judgment and award dated February 20, 2019 passed by the learned Additional District & Sessions Judge, RD Court, Motor Accident Claims Tribunal, Paschim Medinipur in M.A.C. Case No.127 of 2017 on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 27 years old Suvendu Das in a road traffic accident dated January 11, 2017.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation.

Mr. Roy, counsel appearing on behalf of the appellants submitted that the income of Rs.3000/- per month of the victim considered by the Judge, was inadequate. It is further pleaded that claimants have also been deprived by the learned Judge for not granting 40% additional income towards future prospect since the deceased was 27 years old.

Lastly, it is submitted that the Tribunal also committed error in law in not granting interest on the awarded sum from the date of filing of the claim application.

Accordingly, it has been argued that meager amount of compensation has been awarded by the Tribunal in the instant case.

Per contra, Mr. Parimal Kumar Pahari, counsel appearing on behalf of the insurance company, submitted that the Tribunal rightly assessed the income of Rs.3000/- per month notionally in absence of documentary evidence.

Mr. Pahari further submits the Tribunal committed error in law while granted Rs.1,00,000/- in place of Rs.70,000/- under the full component of general damages. Lastly, he submits that the learned Judge erred in applying the multiplier of 18 instead of 17, in respect of the age of the deceased.

Heard the submissions of the parties and considering the judgments of the Hon'ble Apex Court in the case of ***Smt. Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Limited 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 submission of the appellants. For the year 2017, in a claim under Section 166 of the Act, 1988 an amount of Rs.5000/- per month does not appear to be exorbitant. The appellants are justified in praying for an addition of 40% on account of 'future prospect'.

This Court is of the view that the compensation amount should carry interest from the date of filing of the claim application as it is well-settled under Section 171 of the Motor Vehicles Act, 1988.

Mr. Pahari rightly submitted that appellants are entitled to Rs.70,000/- only towards 'general damages' and multiplier shall be 17 in respect of the age of the deceased, in view of the settled law.

Accordingly, the impugned award is thus modified and recalculated as follows:-

Particulars	Amount (Rs.)
Annual Income (Rs.5000/- x 12)	60,000.00
Deduction 1/3	(-) 20,000.00
	40,000.00
Add 40% future prospect	(+) 16,000.00
Total annual loss of income	56,000.00
Multiplier 17 (Rs.56000/- x 17)	9,52,000.00
General damages	(+) 70,000.00
Total compensation	10,22,000.00
Tribunal awarded	(-) 5,32,000.00
Payable	4,90,000.00

Counsel for the appellants acknowledges that his clients have already received the compensation of Rs.5,32,000/- without interest. Therefore, the insurance company is directed to pay the balance sum of Rs.4,90,000/- together with interest assessed at the rate of 6% per annum, on and from the date of filing of the claim application within 45 days from the date of receipt of the bank particulars of the claimants in the same proportion and manner as indicated in the award.

Accordingly, for the reasons given hereinbefore on the point of interest, the claimants/appellants shall also be entitled to get the same rate of interest, i.e., 6% per centum as directed above, on the awarded amount of Rs.5,32,000/- from the date of filing of the claim application till the payment made by the respondent/insurance company.

It is made clear that the payments shall be made by insurance company through NEFT/RTGS to the bank accounts of the claimants and for such purpose counsel for the claimants shall furnish bank particulars of the claimants to the counsel for the insurance company within two weeks.

With the aforesaid directions, the instant appeal is disposed of.

There shall be no order as to costs.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)