Ct. No. 26

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F.M.A. 1458 of 2009

With

IA No. CAN 1/ 2011 (Old No. CAN 1749 of 2011)

(Via Video Conference)

Ashalata Ghosh & Anr.

Vs.

The National Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy ...**For the Appellants/Claimants**

Mr. M.P. Chakraborty ...**For the Respondent/Insurance Co.**

The claimants are in appeal, complaining of the inadequate compensation granted by the learned Tribunal in its judgement and award dated February 10, 2009 passed by the learned District Judge, Member, Motor Accident Claims Tribunal, Nadia, in M.A.C. Case No. 263 of 2008.

Two points have been mainly raised by the learned Counsel appearing on behalf of the appellants/claimants in the instant appeal. He submitted that the monthly income of Rs.2,100/- of the victim, as considered by the learned Judge was inadequate and multiplier was not used as per 2nd Schedule of the Motor Vehicles Act, 1988 in respect of the age of the victim. Accordingly, it was argued that a lesser quantum of compensation has been erroneously awarded by the Tribunal.

Learned Counsel appearing on behalf of the Insurance Company/respondent submits that the award passed by the learned Tribunal is absolutely just and there is no scope of any further enhancement of the award.

I find substance in the arguments advanced by the learned Counsel for the appellants. In the year 2008, in a claim under Section 163A of the Motor Vehicle s Act, 1988, an amount of Rs.3,000/- per month does not appear to be exorbitant.

The impugned award is thus modified and the claimants are found entitled to a total sum of Rs.2,16,500/- together interest thereon at the rate of 6% per annum from the date of lodging the claim till the receipt of payment as indicated more fully hereafter.

Taking monthly income of the victim to be Rs.3,000/-, the annual income comes to Rs.36,000/- after deducting one-third on account of personal expenses, it comes to Rs.24,000/- on which the multiplier of 18 will have to be applied. The net pecuniary compensation come to Rs.4,32,000/-. The appellants are also entitled to general damages of Rs.4,500/- on account of loss of estate and funeral expenses, taking the gross compensation to Rs.4,36,500/- together with interest at the rate of 6 per cent per annum as indicated above from the date of lodging the claim till the date of receipt of the awarded sum.

The claimants acknowledge receipt of the entire awarded sum of Rs.2,20,000/- along with interest. The balance sum of Rs.2,16,500/- would become payable to the appellants 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 Counsel for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Counsel for the Insurance Company. The payment shall be made in the same manner and proportion as decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, all connected application, if any, is also disposed of. The concerned Department is directed to tag the applications, if any, with the main appeal.

There shall be no further order as to costs.

LCR, if any, may be returned back to the Court below.

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.)