

S/L 2
02.8.2021
Court No.26
SD

FMA 1334 of 2008
(Via Video Conference)

Smt. Sunita Das & Ors.
Vs.
The United India Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee
...for the Appellants/Claimants.
Mr. Arabinda Kundu
...for the Respondent/Insurance Co.

The appeal is directed against the judgment and award dated November 27, 2007 passed by the Member, Motor Accident Claims Tribunal, Additional District Judge, 5th Court, Krishnagar, Nadia in M.A.C. Case No.279 of 2003.

The claim petition was filed under Section 163A of the Motor Vehicles Act, 1988. The claimants raised issue with regard to the monthly income of the deceased that was taken as Rs.2,100/- per month. While it is true that there is no clear evidence of the claim made before the Tribunal of Rs.3,000/- per month as to be the income of the victim, this Court as per the practice followed has considered the income of the deceased as Rs.3,000/- per month. The claimants further submit that towards general damages, the Tribunal has not awarded any compensation. It is further submitted that no interest was awarded on the compensation amount.

The insurance company is represented.

After considering the submissions as advanced by the Counsel appearing on behalf of the parties, the impugned award is modified and recalculated as follows:-

<u>Particulars</u>	<u>Amount (Rs.)</u>
Annual Income (Rs.3,000/- x 12)	36,000.00
Less: 1/3 rd for personal expenses	<u>-12,000.00</u>
	24,000.00
Multiplier of 17 to be used	4,08,000.00
Collective heads of General damages	<u>(+) 9,500.00</u>
	4,17,500.00
Less: Awarded amount	<u>(-) 2,85,600.00</u>
Differential amount	<u>1,31,900.00</u>

The claimants acknowledge receipt of the entire awarded amount of Rs.2,85,600/-. The balance amount of Rs.1,31,900/- would become payable to the claimants by the Insurance Company together with interest assessed @ 6 per cent per annum, from the date of filing of the claim petition within 45 days from the receipt of the bank account particulars of the claimants. Insurance Company is also directed to pay 6% interest on the awarded amount by the Tribunal, i.e., Rs.2,85,600/-, if not already disbursed, to be calculated from the date of filing of the claim petition till the date of payment. Counsel for the claimants will forward the bank account details of the claimants within a fortnight from date to the counsel for the Insurance Company. The payment shall be made in the proportion decided by the Court below.

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.)