08.11.2021
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F.M.A.T. 536 of 2021
(Via Video Conference)

Chandra Sekhar Saha & anr.
Vs.
National Insurance Co. Ltd. & anr.

Mr. Muktakesh Das ...For the Appellants/claimants
Mr. Rajesh Singh ... For the respondent no.1/insurance co.

Seen the office report dated October 4, 2021. Defect is cured by granting leave to the learned Advocate for the appellants to correct the preamble of the memorandum of appeal by incorporating the correct date of the order and judgement passed by the learned Court below.

The appeal is directed against the judgment and order dated September 29, 2020 passed by the Learned Judge, Motor Accident Claims Tribunal Islampur, Uttar Dinajpur, in MAC Case No.27 of 2018 in a claim under Section 166 of Motor Vehicle Act, 1988 for the death of one 'Kalpana Saha' in a vehicular accident dated April 6, 2017.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the monthly income of the victim as Rs.3,000/-, considered by the learned Judge was inadequate. Claimants also plead that the learned Tribunal erred in not granting any amount under 'future prospect' of the deceased. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Mr. Singh, learned Advocate appearing on behalf of the insurance company submits that in the facts and circumstances of the case, there is no further scope of enhancement of the compensation amount.

Considering the judgments of the Hon'ble Supreme 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 argument 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. Claimants would also be entitled to 25% future prospect on the income of the deceased. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Monthly Income	Rs.5,000/-
Annual Income	Rs.60,000/-
Less 1/3rd for personal expenses (Rs.20,000/-)	Rs.40,000/-
25% Future Prospect (Rs.10,000/-)	Rs.50,000/-
Multiplier '14'	Rs.7,00,000/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.7,70,000/-
LESS – awarded by Tribunal and paid by insurer	Rs.4,06,000/-
BALANCE (enhancement)	Rs.3,64,000/-

The claimants acknowledge receipt of the awarded amount of Rs.4,06,000/- with interest as directed by the Tribunal. Accordingly, the balance enhanced sum of Rs.3,64,000/- 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 particulars of the appellants. Advocate for the appellants will forward the bank details of the said appellants within a fortnight from date to Advocate for the insurance company. Payment is to be made directly into the bank accounts of the claimants through NEFT/ RTGS by the insurer.

The Tribunal Judge has granted liberty to the insurer to recover the total compensation from the owner of the vehicle. Such observation of Tribunal is not altered.

With the aforesaid directions the instant appeal is disposed of.

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

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.)