08.07.2021
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F.M.A. 3908 of 2016

(Via Video Conference)

Rakhi Layek & ors.
Vs.
The National Insurance Co. Ltd. & anr.

Mr. Amit Ranjan Roy ...For the Appellant/claimant

Mr. Parimal Pahari
... For the respondent no./Insurance Co. Ltd.

The claimants are in appeal, complaining of the inadequate compensation granted by the learned Additional District Judge, re-designated Court Motor Accident Claims Tribunal, Paschim Medinipur in M.A.C. Case No.156 of 2015.

Two points have been mainly raised by the appellants/claimants in the instant appeal. It is submitted on behalf of the appellants that the monthly income of Rs.4,000/- of the victim considered for by the learned Judge was inadequate. Further the claimants were not granted any amount under future prospect. Accordingly, it is argued that lesser quantum of compensation has been erroneously awarded by the Tribunal.

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. The respondent no.1/Insurance Company however also submits that total component of general damages would be Rs.70,000/- but the learned Court below granted Rs.1,30,000/- which is not justified and the multiplier would be 16 instead of 17 in respect of the age of the victim in view ot eh Apex Court judgement cited herein.

Considering the judgements delivered by 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 Ltd. 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 arguments of the appellants. For the year 2015, 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.

Similarly, the appellants are justified in praying for 40% addition on account of future prospect on the income of the deceased in respect of age 27 years. But the Tribunal adopted the multiplier 17 by treating the deceased within the age group of 30-35.

The impugned award is thus modified and the claimants are found entitled to a total amount of Rs.1,83,200/- together with interest thereon at the rate of 6% per annum from the date of lodging of the claim till the receipt of payment as indicated more fully hereafter.

Taking the monthly income of the victim to be Rs.5,000/-, the annual income comes to Rs.60,000/-. By adding 40% future prospect and deducting one-third on account of personal expenses, it is the figure of Rs.56,000/- on which the multiplier of 16 will have to be applied. The net pecuniary compensation comes to Rs.8,96,000/-. The appellants are also entitled to general damages of Rs.70,000/- on account of loss of consortium, loss of estate and funeral expenses, taking the gross compensation to Rs.9,66,000/-, together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge receipt of a sum of the entire awarded amount of Rs.7,82,800/- along with interest. The balance sum of Rs.1,83,200/- would become payable to the appellant together with interest assessed at the rate of 6% 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 appellant. Learned Advocate for the appellant will forward the bank account details of the appellant within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made by the Insurance Company in the same manner, decided by the Court below.

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

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

There shall be no further order as to costs.

LCR, if any, may be returned 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.)