Ct. No. 26

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<u>2021</u>

F.M.A.T. 722 of 2018

With
IA No. CAN 1 of 2021
Shanti Devi & Ors
Vs.
The New India Assurance Co. Ltd. & Anr.

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

Mr. Rajdeep Bhattacharya ...For the Respondent/Insurance Co.

In view of the reasons shown in the application being CAN 1 of 2021, the delay in preferring the appeal is condoned and the appeal is regularized. The application is disposed of.

The claimants are in appeal, complaining of the inadequate compensation granted by the tribunal in its award dated February 3, 2018 passed by Additional District and Session Judge cum Motor Accident Claims Tribunal, Fast Track 2nd Court, Asansol in M.A.C. Case No. 23 of 2014 (M.A.C. Case No. 114 of 2013), on a claim under Section 166 of the Motor Vehicles Act, 1988 in respect of an accident that took place on 25.04.2013.

The appellants state that the victim who was an employee of Eastern Coalfields Limited, died at the age of 47 years. The appellants further point out that the claimants are entitled to 30% on account of future prospects in view of the law as it stands now after the judgment passed by Hon'ble Apex Court in ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.,*** reported in **(2017) 16 SCC 680** and the learned Tribunal also held it 30 % but calculated on the basis of 10 %. The learned Advocate for the claimants also submits that interest on the enhanced amount should be granted from the date of filing of the claim case. However, learned Tribunal erred in not allowing the same.

The Insurance Company is represented and contested by Mr. Bhattacharya.

The impugned award is modified and the claimants are found entitled to a total amount of Rs.7,62,487/- together with 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.

The gross income of the victim appears to have been Rs.4,31,238/- per annum, after deduction of tax and other allowances. On such amount, a multiplier of 13 is applied and 30% is added on account of future prospect and after deducting one-third from such figure on account of personal expenses, the figure comes to Rs.48,58,620/-. Upon adding Rs.70,000/- on account of collective heads of general damages, the gross amount comes to Rs.49,28,620/- together with interest at the rate of 6% per annum as indicated above. The claimants acknowledge receipt of a sum of Rs 41,66,133/-. The balance sum of Rs.7,62,487/- 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.

Advocate for the Appellants will forward the bank account details of the appellants within a fortnight from date to Advocate for the insurance company. The payment shall be made in the proportion decided by the Court below.

FMAT 722 of 2018 is disposed of.

There will be no order as to costs. Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shekhar B. Saraf, J.)