S/L 9
09.11.2021
Court No.26
SD

FMAT 575 of 2021
(Via Video Conference)

Minor Debojit Debnath & Ors.
Vs.
The Oriental Insurance Co. Ltd. & Ors.

Mr. Muktakesh Das
... for the Appellants/Claimants.
Mr. P.K. Pahari
... for the Respondent/Insurance Co.

This appeal has been filed against the judgment and award dated January 21, 2019 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, 5th Court, Nadia at Krishnagar in MAC Case No.182 of 2014 on a claim under Section 166 of the Motor Vehicles Act, 1988 for the accidental death of Nani Gopal Debnat on 04.03.2012.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Counsel for the appellants submits that the learned Tribunal also committed error in law while not granting per month income of the deceased of Rs.6,000/- as Khalasi. He further submits that the learned Tribunal also committed error in law while not granting 40% additional income towards future prospect since the deceased was 38 years old self-employed person. He submits that the learned Tribunal also committed error in law while not granting the interest on the compensation award from the date of filing of the claim petition till realization.

Counsel for the insurance company submits that the learned Tribunal is just while not assessing monthly income of the deceased Rs.6,000/- since the claimants failed to produce any cogent evidence before the Tribunal to establish monthly income of the deceased.

Be that as it may, considering the rival submissions of the parties as well as observation 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*** as well as general practice of the High Court, above award passed by the Tribunal below is modified and recalculated as follows:-

Particulars	Amount (Rs.)
Monthly income	4,000.00
Annual income	48,000.00
Add 40% future prospect	19,200.00
Total income	67,200.00
less : 1/3 personal expenses	22,400.00
Annual loss of dependency	44,800.00
Multiplier of 15 (44,800 x 15)	6,72,000.00
Add General damages	70,000.00
Total compensation	**7,42,000.00**

a) The appellants also submit that they have received the awarded amount of Rs.4,00,000/-. But no amount towards interest has been received. Therefore, the claimants/appellants are entitled to get 6% interest per annum from the date of filing of claim application till payment of principal awarded sum of Rs.4,00,000/-.

b) The appellants/claimants are also entitled to get a sum of Rs.3,42,000/- (Rs.7,42,000/- - Rs.4,00,000/-) together with interest assessed at 6% per annum from the date of filing of the claim application till payment to the claimants.

The insurance company is liable to pay the amount as stated above (a+b) within 30 days of receipt of particular of claimants' bank accounts to be supplied by their counsel to the counsel for the insurance company.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as ordered 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 application, if any, is 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.)