S/L 18
26.7.2021
Court No.26
SD

FMA 650 of 2021
(Via Video Conference)

Smt. Tulsi Dutta & Anr.
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee
... for the Appellants/Claimants.
Mr. Rajesh Singh
... for the Respondents/Insurance Co.

The appeal is directed against the judgment and award dated March 29, 2019 passed by the learned Judge, Motor Accident Claims Tribunal, 3rd Court, Nadia, Krishnagar in M.A.C. Case No.396 of 2015 on a claim under section 166 of the Motor Vehicles Act, 1988 for death of a 25 years old bachelor, namely, 'Animesh Dutta' in a road accident dated September 12, 2015.

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 Rs.3,000/- of the victim considered by the learned Judge was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Lastly, claimants plead that they were erroneously given only Rs.4,500/- instead of Rs.30,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongly awarded by the Tribunal.

Per contra, counsel appearing on behalf of the Insurance Company argues that the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgments 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 months does not appear to be exorbitant. Appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.30,000/- under collective heads of general damages. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	Amount (Rs.)
Monthly income	5,000.00
Annual Income	60,000.00
Less 50% for personal expenses (Rs.30,000/-)	30,000.00
Add 40% future prospect (Rs.12,000/-)	42,000.00
Multiplier '18'	7,56,000.00
Add 'General Damages'	30,000.00
Total principal compensation	7,86,000.00
Less – awarded by Tribunal & paid by insurer	3,28,500.00
Balance (enhancement)	4,57,500.00

The claimants acknowledge receipt of the awarded amount of Rs.3,28,500/- along with interest. Accordingly, the balance enhanced sum of Rs.4,57,500/- 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 a period of 45 days from the date of receipt of the bank account particulars of the claimants. Advocate for the claimants will forward the bank account details of the claimants within a fortnight from date to the Advocate 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 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.)