S/L 11
30.6.2021
Court No.26
SD

FMAT 723 of 2016
With
CAN 1 of 2017
(Old CAN 9494 of 2017)
(Via Video Conference)

Smt Pratima Malik & Anr.
Vs.
Shriram General Insurance Co. Ltd. & Ors.

Mr. Amit Ranjan Roy
... for the Appellants/Claimants.
Mr. Rajesh Singh
... for the Respondents/Insurance Co.

It appears to this Court that the instant appeal has been filed out of statutory period. Being satisfied with the cause for delay in filing the instant appeal and since counsel appearing on behalf of the respondent/Insurance Company did not oppose, this Court condones the delay in filing the instant appeal and the instant appeal is taken up for hearing.

The appeal is directed against the judgment and award dated October 3, 2015 passed by the learned Judge, Motor Accident Claims Tribunal, 1st Court, Burdwan, in M.A.C Case No. 72 of 2014/427 of 2014, under section 166 of the Motor Vehicles Act, 1988.

Various points have been raised by the appellants/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 bachelor victim, considered by the Tribunal was inadequate. Further, the appellants/claimants were not granted any amount under 'future prospect'. Appellants/Claimants argue that multiplier of '13' was wrongly applied for instead of correct multiplier of '17'. Lastly, the appellants/claimants were given only Rs.4,500/- instead of Rs.70,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been erroneously awarded by the Tribunal.

The Insurance Company is represented.

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 2014, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 4,000/- per month 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. The appropriate multiplier of '17' is to be applied for assessment of compensation amount. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

The income of the victim being Rs.4,000/- per month, upon annualizing, comes to Rs.48,000/-. The addition of 40% 'future prospect' brings it to Rs.67,200/-. For 'personal expenses', 50% is deducted and then it is the amount of Rs.33,600/- on which the multiplier of 17 is applied to reach the net pecuniary compensation of Rs.5,71,200/-. Claimants are also entitled to Rs. 30,000/- on account of loss of estate and funeral expenses, taking the gross compensation to Rs.6,01,200/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim.

The claimants acknowledge receipt of the awarded amount of Rs.2,38,500/- along with interest. Accordingly, the balance enhanced sum of Rs.3,62,700/- 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.

Counsel appearing on behalf of the appellants/claimants shall forward the bank account details of the appellants/claimants to the Insurance Company within a period of two weeks from date.

The Insurance Company is directed to pay Rs.3,62,700/- together with interest @6% per annum on and from date of filing of the claim application to the appellants'/claimants' bank accounts directly within a period of four weeks from date, in the same manner and proportion as decided by the Tribunal.

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.)