Ct. No. 26

30

akb

16.8

2021

F.M.A.T. 524 of 2014

Smt. Sangeeta Layek & Anr.

Vs.

The National Insurance Co. Ltd. & Anr.

(Via Video Conference)

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

Mr. Afroze Alam ...For the Respondent/Insurance Co.

The appeal is directed against the judgment and award dated January 31, 2014 passed by the learned Additional District and Sessions Judge, Motor Accident Claims Tribunal, 4th Court, Asansol, in M.A.C. Case No. 15 of 2012 / 74 of 2011.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation.

Mr. Amit Ranjan Roy, learned Counsel appearing on behalf of the claimants/appellants submitted that the learned Tribunal erred in law in deducting fifty per cent of the income of the deceased, instead of one-third on account of 'personal expenses'. Furthermore, claimants were not granted any amount under 'future prospect'. Lastly, claimants plead that considering the 53 years of age of the deceased, the correct multiplier should have been 11, instead of 7, applied by the learned Tribunal in the impugned award. Accordingly, it was argued that lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

Per contra, the learned Counsel representing the Insurance Company argues in the facts and cirucmstances of the case, the award passed by the learned Tribunal is absolutely just and reasonable and there is no scope for enhancement of the award.

Heard learned Counsel appearing on behalf of the parties and perused the materials placed on record.

Considering the decisions 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** this Court finds substance in the arguments of the appellants. Appellants are justified in praying for 15% addition on account of 'future prospect' on the income of the 53 years old deceased and 1/3rd deduction on account of personal expenses of the deceased. The multiplier should also be of 11 purchase factor. The claimants/appellants are also entitled to get General Damages Rs.30,000/- instead of Rs.4,500/- in view of the settled law.

Accordingly, the ratio as decided in ***Sarala Varma (Supra)*** as well as ***Pranay Sethi (Supra),*** the award passed by the Tribunal is modified and recalculated as follows :

Monthly income	**Rs. 26,473/-**
Annual Income (26,473 X 12)	**Rs. 3,17,676/-**
1/3rd deduction on personal Expenses	**Rs. 1,05,892/-**
	Rs. 2,11,784/-
Add. 15% 'future prospect'	**Rs. 31,767/-**
	Rs. 2,43,551/-
Age 53 years, (2,43,551 X 11 Multiplier) Total Pecuniary compensation	**Rs.26,79,061/-**
General Damages	**Rs. 30,000/-**
Total Compensation	**Rs.27,09,061/-**

Mr. Roy acknowledges that his clients have already received the entire awarded sum of Rs.11,16,366/-

along with interest. The balance sum of Rs.15,92,695/- would become payable to the appellants by the Insurance Company together with interest at the rate of 6 per cent per annum from the date of filing of the claim application till the balance sum paid to the appellants within a period of 45 days from the receipt of the particulars of their bank accounts to be supplied by the learned Counsel for the appellants to the learned Counsel for the Insurance Company.

It is made clear that the payments shall be made by NEFT/RTGS in the same manner and proportion as decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, connected application, if any, is also disposed of. The concerned Department is directed to trace out the application and tag the same with this appeal.

There shall be no further order as to costs.

LCR, if any, may be returned back 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.)