Ct. No. 26

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F.M.A. 893 of 2004

With

IA No. CAN 2 of 2004 (Old No. CAN 10242 of 2004

Nirmala Bajaj

Vs.

IFFCO TOKIO General Insurance Co. Ltd.

(Via Video Conference)

Mr. Krishanu Banik **...For the Appellant/Claimant**

Mr. Rajesh Singh **...For the Respondent/Insurance Co.**

The appeal is directed against the judgment and award dated May 31, 2004 passed by the learned Judge, Special Court, (E.C Act)-cum-Motor Accident Claims Tribunal, Burdwan, in M.A.C. Case No. 6 of 2004; M.A.C. Case No. 22 of 2003 and M.A.C. Case No. 153 of 2003.

Various points have been raised by the claimant in the instant appeal challenging the quantum of compensation.

It is submitted on behalf of the appellant that the monthly income of Rs.2,000/- of the victim, as considered by the learned Judge was inadequate. Further, the appropriate multiplier in the instant case should have been '16' and not '15' as applied by the learned Judge. Lastly, the claimant pleaded that full component of compensation under collective heads of 'general damages' should have been Rs.4,500/-. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

Mr. Singh, the learned Counsel appearing on behalf of the Insurance Company submits that in the facts and circumstances of the case, the learned Tribunal was correct in the assessment of compensation as awarded.

Considering the decision of the Hon'ble Apex Court in the case of ***Laxmi Devi & Others -vs- Mohammad Tabbar & Anr.*** reported in **2008(2) TAC 394 SC** and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellant. For the year 2002, in a claim under section 163A of the Motor Vehicles Act, 1988, an amount of Rs.3,000/- per month does not appear to be exorbitant. Considering the 18 years of the age of the victim, the appropriate multiplier of '16' is to be used and the claimant should also be entitled to Rs.4,500/- as full component of general damages. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter:-

Monthly Income	**Rs. 3,000/-**
Annual Income	**Rs. 36,000/-**
Less 1/3rd for personal expenses (Rs.12,000/-)	**Rs. 24,000/-**
Multiplier '16'	**Rs.3,84,000/-**
Add 'General Damages'	**Rs. 4,500/-**
OTAL Principal Compensation	**Rs.3,88,500/-**
LESS – awarded by the Tribunal and paid by the Insurer	**Rs.2,42,000/-**
BALANCE (enhancement)	**Rs.1,46,500/-**

The claimant acknowledges receipt of the awarded amount of Rs.2,42,000/- as directed by the Tribunal. Accordingly, the balance enhanced sum of Rs.1,46,500/- would become payable to the appellant 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 within a period of 45 days from the date of receipt of the bank account particulars of the appellant.

Learned Counsel for the appellant will forward the bank account details of the appellant within a fortnight from date to the learned Counsel for the Insurance Company.

With the aforesaid directions the instant appeal is disposed of.

In view of the disposal of this appeal, connected applications, if any, are also disposed of. The concerned Department is directed to tag the applications, if any, with the main 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.)