

06.09.2021

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F.M.A.T. 764 of 2016

(Via Video Conference)

Swapan Mondal & anr.

Vs.

Rina Dutta & anr.

Mr. Kuktakesh Das

...For the Appellants/claimants

Ms. Sucharita Paul

**... For the respondent No.2/
Insurance Co.**

The instant appeal has been filed by the claimants against the judgment and order dated February 20, 2016 passed by the learned member, Motor Accident Claims Tribunal cum District Judge, Nadia, in MAC Case No. 112 of 2014, on a claim under Section 163A of the Motor Vehicles Act, 1988.

The appellants submit that the victim was earning Rs.3,000/- per month from his cattle, goats etc. However, the learned Tribunal assessed the compensation on the basis of monthly income of Rs.2,000/-. It is further submitted that the claimants are also entitled to statutory interest in accordance with Section 171 of the Motor Vehicles Act, 1988 which was not awarded by the learned court below.

Mrs. Paul, learned advocate appearing on behalf of the insurance company argues that the learned Court below was correct in accepting the income of the victim as Rs.2,000/- per month in absence of proper evidence.

This Court is inclined to accept the submissions made on behalf of the appellants. For the year 2014, on 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 as the claimants can avail a maximum of Rs.40,000/- per annum as per the said Act.

Accordingly, after considering the submissions as advanced by the learned Advocates for the parties, the impugned award is required to be modified and reassessed in the following manner :

<u>Particulars</u>	<u>Amount</u>
Yearly income (Rs.3,000 p.m.X12)	Rs.36,000/-
Less : 1/3 rd for the personal expenses	(-) <u>Rs.12,000/-</u>
	Rs.24,000/-
Multiplier 8 to be used(Rs.24,000 X 8)	Rs.1,92,000/-
Collective heads of General Damages	(+) <u>Rs. 4,500/-</u>
	Rs.1,96,500/-
Less : Awarded amount	(-) <u>Rs.1,37,500/-</u>
Differential Amount	Rs. 59,000/-

Learned Counsel appearing on behalf of the appellants/claimants submits that his clients have already received the awarded amount of Rs.1,37,500/- excluding interest. According to him, the balance sum of Rs.59,000/- would become payable to the appellants by the insurance company together with interest @ 6% per annum on and from the date of filing the claim application within a period of 45 days from the date of receipt of the bank account particulars of the appellants.

Insurance Company is also directed to pay 6% interest on the principal awarded amount of Rs.1,37,500/-, if not already disbursed, to be calculated from the date of lodging of the claim application till the date of payment. For such purpose, learned Advocate for the appellants will forward the bank account details of the appellants within a period of fortnight from date to the learned 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 disposal of this appeal, connected application, if any, is also disposed of.

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.)