

Ct. No. 26
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2021**

F.M.A.T. 743 of 2017
Jugal Mondal & Ors.
Vs.
United India Insurance Co. Ltd. & Anr.
(Via Video Conference)

Ms. Sima Ghosh **...For the Appellant/Claimant**

Mr. Sanjay Paul **...For the Respondent/Insurance Co.**

The appeal is directed against the judgment and award dated January 21, 2017 passed by the learned Additional Judge, Motor Accident Claims Tribunal, 4th Court, Berhampore, Murshidabad, in M.A.C. Case No. 405 of 2009, on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 'Sohagi Mondal @ Suyagi Mondal' in a road accident dated June 10, 2009.

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 learned Tribunal committed error in law while assessing annual income of the deceased Rs.15,000/- per annum, instead of Rs.36,000/-.

In reply, Mr. Sanjay Paul, learned Counsel appearing on behalf of the Insurance Company submits that the award passed by the learned Tribunal is absolutely just and there is no scope for interference and/or modification of award. Mr. Paul further submits that since the claimants failed to establish the income of the deceased, the learned Tribunal rightly assessed annual income of the deceased Rs.15,000/- notionally.

However, following the precedence of this Court on the point of monthly income, I find substance on the arguments of the appellants for the year 2009, 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.

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. 24,000/-
Multiplier '17' – (Rs. 24,000 X 17)	Rs. 4,08,000/-
Collective 'General Damages'	Rs. 9,500/-
TOTAL Principal Compensation	Rs. 4,17,500/-

The claimants acknowledge receipt of the awarded amount of Rs.1,79,500/- along with interest in terms of direction of the Tribunal.

Accordingly, the balance enhanced sum of Rs.2,38,000/- would become payable to the appellants/claimants 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 appellants.

Learned Counsel for the appellants will forward bank account details of the appellants within a fortnight from date to the learned Counsel for the Insurance Company. The payment shall be made to the claimants' bank accounts directly, in the same manner and proportion as decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

There shall be no further order as to costs.

In view of 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.

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.)