S/L 1
02.8.2021
Court No.26
SD

FMA 2522 of 2007
With
CAN 1 of 2009
(Old CAN 829 of 2009)
(Application is not in the file)
(Via Video Conference)

Smt. Sakuntala Laik @ Nayek & Ors.
Vs.
United India Insurance Co. Ltd. & Anr.

Mr. Krishanu Banik
... for the Appellants/Claimants.
Mr. Parimal Kumar Pahari
... for the Respondent/Insurance Co.

The appeal is directed against the judgment and award dated March 15, 2007 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track, 2nd Court, Burdwan in M.A.C. Case No.500 of 2005.

The facts of the case are not in dispute. The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Counsel appearing on behalf of the appellants/claimants submits that the Tribunal committed an error in not assessing the monthly income of deceased as Rs.3,000/-.

Mr. Banik further submits that the Tribunal also committed error in law by not assessing the future prospect of the deceased at 40% and not applying the multiplier of 15 and further not assessing the general damages as Rs.70,000/- while passing the impugned award. He also submits that the Tribunal has not assessed 1/3rd deduction on account of personal living expenses.

In view of the law as it stands now, after the judgment delivered by the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.,*** reported in ***(2017) 16 SCC 680***, the claimants are entitled to 40% additional income as future prospects of the deceased. This Court is also inclined to accept the submissions made on behalf of the appellants on the above points. The impugned award is thus modified as stated hereinafter:

Particulars	Amount (Rs.)
Monthly Income	3,000.00
Annual Income	36,000.00
40% future prospect	14,400.00
	50,400.00
After 1/4th deduction (50,400.00 – 12,600.00)	37,800.00
Multiplier (15) (Rs.37,800/- x 15)	5,67,000.00
General damages	70,000.00
Total	6,37,000.00

Mr. Banik acknowledges that his clients have already received a sum of Rs.2,50,000/- together with interest that has been awarded by the Court below and which has been paid by the insurance company, the differential amount which comes to Rs.3,87,000/- together with 6% interest from date of claim application till payment which shall be paid to the claimants by the insurance company in the same manner as indicated in the award within 45 days from the receipt of the particulars of their bank accounts to be supplied by their counsel to the counsel for the insurance company.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as ordered 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 the disposal of this appeal, connected applications, if any, are 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.)