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(Via Video Conference)

F.M.A. 966 OF 2019
with
I.A. No. CAN 1 OF 2019
(Old No. CAN 3211 OF 2019)
with
I.A. No. CAN 2 OF 2019
(Old No. CAN 10182 OF 2019)

ICICI Lombard General Insurance Co. Ltd.
Vs.
Hurzahan Begum & Ors.

with

COT 97 OF 2019

Hurzahan Begum & Ors.

Vs.
ICICI Lombard General Insurance Co. Ltd. & Anr.

Mr. Parimal Kumar Pahari
...For the Appellant/
Insurance Co.

Mr. Ali Imam Shah
...For the Respondents/
Claimants.

The instant appeal has been filed by the appellant Insurance Company against the order dated February 16, 2019 passed by the Judge, Motor Accident Claims Tribunal, Special Judge cum Additional District Judge, Durgapur, Paschim Bardhaman in M.A.C. Case No. 32 of 2017 (152 of 2017) in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of Parvej Jaman Munsi in a road accident that occurred on June 25, 2017.

Counsel appearing for the appellant/Insurance Company submits that the tribunal committed an error in law while not considering the real admitted fact of the accident that the deceased, at the time of accident, proceeded with his motor cycle and fell down from the said motor cycle and sustained injuries due to loss of control and as such the appellant/Insurance Company is not at all liable to pay any compensation in this case.

Counsel appearing on behalf of the respondents/claimants opposed the appeal and submitted that the death of the victim was an outcome of rash and negligent driving of the offending motor cycle and the tribunal duly considered the factual aspects. It was sought to be established by the respondents /claimants that mere delay would not be sufficient enough to dispute an award passed by the tribunal. He relied on the decision in ***Ravi –vs.- Badrinarayan*** reported in ***(1) T.A.C. 867*** to establish the fact that delay in lodging the FIR cannot be a ground to doubt the claimants' case. He further relied on the decisions in ***2017 (2) TAC 466 (CAL) [National Insurance vs. Smt. Pratima Barick & Anr. and in 2019 (4) TAC 178 (CAL) [National Insurance vs. Shila Debi & Ors.]*** of this High Court where similar views had been expressed.

Considering the judgements 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***, I find substance in the arguments of the claimants/respondents.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Annual Income	Rs.3,89,164/
Tax paid	Rs.1,985/-
After deduction of Tax, income per annum	Rs.3,87,179/-
25% additional income towards future prospect	Rs.96,794.75/-
Total income	Rs.4,83,973.75/-
Less 1/3rd for personal expenses	Rs.1,61,324.58/-
Contribution to his family	Rs.3,22,649/-
Multiplier '14'	Rs.45,17,086/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.45,87,086/-

The compensation amount of Rs.45,87,086/- shall carry interest @6% per annum from the date of filing of the claim petition till the date of payment.

Counsel appearing for the insurance company submitted that the insurance company had deposited Rs.49,66,381/- before the Registrar General of this Court.

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

The Registrar General shall check the veracity of the bank accounts of the claimants/respondents and identity of the claimants/respondents before disbursing the amount.

Upon receiving the said payment counsel for the claimants/respondents shall intimate the counsel for the appellant/Insurance Company about the payment and details of the bank accounts so that the Insurance Company could make over the deficit payment, if any, to the claimants/respondents by way of NEFT/RTGS in the respective accounts.

The Registrar General is directed to refund back the excess amount, if any, to the appellant/Insurance Company after payment of the claimants/respondents.

With the aforesaid directions the instant appeal and the connected cross-objection being COT 97 of 2019 are disposed of.

In view of the disposal of this appeal, connected applications, if any, are also disposed of. The department concerned is directed to tag the original cross-objection and the applications, if any, with the main appeal.

There will be no order as to costs.

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.)