Ct. No. 26

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F.M.A. 2016 of 2013

(Via Video Conference)

Jasoda Mondal & Ors.

Vs.

New India Assurance Co. Ltd. & Anr.

Ms. Sima Ghosh ...**For the Appellants/Claimants**

Ms. Sayanti Santra ...**For the Respondent/Insurance Co.**

This appeal is directed against the judgment and award dated March 16, 2013 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Suri, Bidbhum, in M.A.C. Case No. 207 of 2010.

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 victim as Rs.15,837/- instead of Rs.24,093/- per month and after deducting Professional Tax and other statutory deduction the amount comes to Rs.23,942/-. Further, the claimants pleaded that the learned Tribunal committed error in law while not granting 15% additional amount towards future prospect since the deceased was 53 years old Government employed person and applied multiplier of 8 instead of 11 as per schedule.

In reply, Ms. Sayanti Santra, learned Counsel appearing for the respondent/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 the award.

Considering the judgments delivered by the Hon'ble Apex Court in the cases of ***Smt. Sarala 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** and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. Under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 23,942/- per month does not appear to be exorbitant. Appellants are justified in praying for 15% additional amount towards future prospect since the deceased was 53 years old Government employed person.

Accordingly, the ratio as decided in ***Sarala Varma (Supra)*** as well as ***Pranay Sethi (Supra),*** the award passed by the Tribunal is modified and recalculated as follows :

Monthly income	**Rs. 23,942/-**
Add : Future Prospect 15%	**Rs. 3,591/-**
Total monthly income	**Rs. 27,533/-**
Annual Income (27,533 X 12)	**Rs. 3,30,396/-**
After 1/3rd deduction for personal Expenses	**Rs. 2,20,264/-**
Multiplier (11) (2,20,264 X 11)	**Rs.24,24,904/-**
Collective General damages	**Rs. 70,000/-**
Total Compensation	**Rs.24,92,904/-**

The claimants acknowledge receipt of the awarded amount of Rs.10,23068/- including interest in terms of direction of the Tribunal.

Accordingly, the balance enhanced sum of Rs.14,69,836/- 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.)