S/L 8
27.7.2021
Court No.26
AD

FMA 3349 of 2015
(Via Video Conference)

Smt. Mamoni Bouri & Anr.
Vs.
Royal Sundaram Alliance Insurance Company Ltd. & Ors.

Mr. Krishanu Banik
... for the Appellants/Claimants.
Mr. Rajesh Singh
... for the Respondent/Insurance Company.

The appeal is directed against the judgment and order dated 15th day of June, 2015, passed by the Motor Accident Claims Tribunal, Bankura in M.A.C. Case No.07 of 2015/157 of 2013 for the death of one 11 years old boy, namely 'Amit Bauri' in a road accident dated July 29, 2013.

In the instant appeal, claimants have challenged the quantum of compensation on various points. It is submitted on behalf of the appellants that the annual income of Rs.15,000/- of the victim considered by the Ld. Judge, was inadequate. Further, claimants were granted an insufficient amount of Rs.50,000/- under 'future prospect'. Lastly, claimants plead that the multiplier of '17' purchase factor, as adopted by the Court below was improper. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the Learned Advocate representing the insurance company argues that in the facts and circumstances of the case, the award is just and reasonable and there is no further scope of enhancement of the same.

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 appellants. Relying upon the judgement of *Kishan Gopal and Anr. Vs Lala & Others* reported in *2013 (4) TAC 5 SC,* I hold the income of the victim to be Rs.30,000/- per annum. Claimants are justified in praying for 40% addition on account of 'future prospect'. In the case of *Reshma Kumari & Others –Vs.– Madan Mohan & Anr.* reported in *2013 (2) TAC 369 (SC)* it has been decided that when the age of the deceased is less than 15 years, the multiplier of 20 should be adopted. Claimants, however, admit that deduction for 'personal expenses', should be 50% of the notional income of the deceased and Learned Judge granted as excessive amount of Rs.59,500/- under different components of 'general damages'. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Annual Income	Rs.30,000/-
Less 50% for personal expenses(Rs.15,000/-)	Rs.15,000/-
Add 40% future prospect (Rs.6,000/-)	Rs.21,000/-
Multiplier '20'	Rs.4,20,000/-
Add 'General Damages'	Rs.30,000/-
TOTAL Principal Compensation	Rs.4,50,000/-
LESS – awarded by Tribunal and paid by insurer	Rs.3,14,500/-
BALANCE (enhancement)	Rs.1,35,500/-

The claimants acknowledge receipt of the awarded amount of Rs.3,14,500/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of

Rs.1,35,500/- would become payable to the appellants 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.

Advocate for the Appellants will forward the bank account details of the appellants within a fortnight from date to 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 the disposal of this appeal, connected application, if any, is 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.)