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(Via Video Conference)

F.M.A. 3351 OF 2015
with
I.A. No. CAN 1 OF 2016
(Old No. CAN 7033 OF 2016)

Malati Kundu & Anr.

Vs.

The National Insurance Company
Ltd. & Anr.

Mr. Jayanta Kumar Mandal

...For the Appellants/
Claimants.

Mr. Rajesh Singh

...For the Respondent /
Insurance Co.

The appeal is directed against the judgment and award dated 19th day of June, 2015 passed by the learned Additional District Judge cum Motor Accident Claims Tribunal, Redesignated Court, Bankura in M.A.C. case no. 15 of 2015/ 63 of 2014 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 26 years old 'Arun Kundu' in a road accident dated June 5, 2014.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants/claimants that the assessment of the monthly income of Rs.3,000/- of the deceased was on the lesser side. The appellants/claimants plead that they were not granted appropriate percentage of additional sum under the 'future prospect'. The consideration of '13' as multiplier was erroneous for the 26 year old deceased.

Lastly, the appellants/claimants submit that they were not given the full component under 'general damages'.

Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the tribunal.

Per contra, learned advocate representing the respondent/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**, and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants/claimants. For the year 2014, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 4,000/- per month does not appear to be exorbitant. The appellants/claimants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.30,000/- under collective heads of general damages. Considering the age of the deceased, the appropriate multiplier, in the instant case, should be of '17' purchase factor.

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

Particulars	Amount (Rs.)
Monthly Income	Rs.4,000/-
Annual Income	Rs.48,000/-
Less 50% for personal expenses (Rs.24,000/-)	Rs.24,000/-
Add 40% future prospect (Rs.9,600/-)	Rs.33,600/-
Multiplier '17'	Rs.5,71,200/-
Add 'General Damages'	Rs.30,000/-
TOTAL Principal Compensation	Rs.6,01,200/-
LESS – awarded by Tribunal and paid by insurer	<u>Rs.2,93,500/-</u>
BALANCE (enhancement)	<u>Rs.3,07,700/-</u>

The appellants/claimants acknowledge receipt of the awarded amount of Rs.2,93,500/- along with interest, in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.3,07,700/- would become payable to the appellants/claimants by the Insurance Company, together with interest assessed @6% 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/claimants. Advocate for the appellants/claimants will forward the bank account details of the appellants/claimants within a fortnight from date to the advocate for the Insurance Company. The payment shall be made to the appellants'/claimants' bank accounts directly, in the proportion as decided by the Court below.

Accordingly, with the above directions the appeal is disposed of.

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

The department is directed to send down the lower court records, if arrived, immediately.

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.

(Shekhar B. Saraf, J.)