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(Via Video Conference)

F.M.A. 236 OF 2021
with
I.A. No. CAN 1 OF 2019
(Old No. CAN 10932 OF 2019)

Shriram General Insurance Company Limited
Vs.
Kashmira Begum & Ors.

Mr. Rajesh Singh
...For the Appellant/
Insurance Co.

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

The instant appeal by the Insurance Company is directed against the judgement and award dated July 31, 2019 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Burdwan in M.A.C. Case No. 50 of 2014/305 of 2014 on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 26 years old 'Sk. Babul @ Sk. Suraj' in a vehicular accident dated 8th June, 2014.

The appellant insurance company disputes its liability of satisfaction of award on the ground that the offending truck, insured with the appellant, was not involved in the accident. To substantiate its case, insurer relies upon the First Information Report dated 07.07.2014 which was lodged on 08.06.2014, i.e. one month after the accident. Insurance company submits that the said truck was subsequently impleaded as an afterthought to gain unlawful advantage from the appellant. Insurer further disputes the quantum of compensation on the ground of improper deduction of personal expenses and wrongful application of 'future prospect' amongst others.

Counsel appearing on behalf of claimants /respondents disputes the contention of the insurance company and submits that the tribunal was correct in awarding compensation and making insurer liable to pay the same.

Upon hearing the parties, I am unable to accept the argument of 'non-involvement of the offending vehicle' as contended by the insurer. After due investigation, the Investigating Officer found the offending truck responsible for the accident. Seizure list, charge sheet, statement of eye-witness, each confirms such involvement. The reason for delay in lodging the FIR has been explained and insurer could not bring any evidence, either oral or documentary, before the Court below to prove its case. The judgement of Hon'ble Supreme Court in the case of ***Ravi -Vs- Badrinarayan & Ors.*** reported in ***2011(1) TAC 867 SC*** also confirms that delay in lodging FIR cannot be a ground to deny justice to the victim. Accordingly, the appeal fails on the above ground.

On the point of 'quantum', this Court finds substance in the argument of insurer. Following the principles of assessment laid down by Hon'ble Supreme

Court in the cases 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***, 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 1/3rd for personal expenses (Rs.16,000/-)	Rs.32,000/-
Add 40% future prospect (Rs.12,800/-)	Rs.44,800/-
Multiplier '17'	Rs.7,61,600/-
Add 'General Damages'	Rs.70,000/-
Total principal compensation	Rs.8,31,600/-

Accordingly, the aforesaid sum of Rs.8,31,600/- would become payable to the respondents 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. Counsel for the appellants will forward the bank account details of the appellants within a fortnight from date to counsel for the insurance company. The payment shall be made to the claimants' bank accounts directly, in the manner and proportion decided by the Court below.

The Insurance Company shall be at liberty to withdraw the statutory deposit of Rs.25,000/- along with the accrued interest, from the High Court.

With the aforesaid directions the appeal is 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 applications, if any, with the main appeal. LCR, if any, may be returned back to the Court below.

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.)