

21.06.2021

SS

F.M.A. 158 of 2021

(Via Video Conference)

Smt. Golapi Mahata

Vs.

National Insurance Company Ltd. & anr.

Mr. Subhankar Mandal

...For the Appellant/claimant

Ms. Sucharita Paul

... For the respondents/Insurance Co.

The above appeal has been filed by the claimant, against an award and/or judgement dated September 26, 2019 passed by the Additional District & Sessions Judge, Fast Track 3rd Court, Motor Accident Claims Tribunal, Paschim Medinipur, in M.A.C. Case No. 70 of 2018 (R. 84/2018), on a claim under Section 166 of the Motor Vehicles Act, 1988, for the accident of her son, which took place on December 4, 2017.

The victim, a bachelor, was working as a Volunteer under the West Bengal National Volunteer Force. Accordingly, the claimant is entitled to 40% on account of future prospects of the victim and Rs.30,000/- under the collective heads of general damages in view of the law as it stands now after the judgments delivered by the 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. However, learned Tribunal erred in not allowing the same.

The insurance company is represented.

The impugned award is modified and the claimants are found entitled to a total amount of Rs.17,61,996/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the receipt of payment as indicated more fully hereafter.

The gross income of the victim appears to have been Rs.1,37,460/- per annum. After deducting 1/2 from such figure on account of personal expenses of the victim and adding 40% as future prospect, the yearly income comes to Rs.96,222/-. On such amount, a multiplier of 18 is applied, thus taking the amount to Rs.17,31,996/-. Upon adding Rs.30,000/- on the collective heads of general damages, the gross amount comes to Rs.17,61,996/- together with interest at the rate of 6% per annum as indicated above.

The claimants acknowledge receipt of the entire awarded amount along with interest. The balance sum of Rs.5,09,856/- would become payable to the appellant 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 appellant. Advocate for the Appellant will forward the bank account details of the appellant 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.

In view of the 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

There will be no order as to costs.

LCR, if any may be returned back to the Court below.

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.)