Ct. No. 26

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F.M.A.T. 1186 of 2018
(Via Video Conference)
Rumi Sarkar & Anr.
Vs.
The New India Assurance Co. Ltd. & Ors.

Mr. Gazi Faruque Hossain ...For the Appellants

Ms. Sucharita Paul ...For the Respondent/Insurance Co.

The claimants are in appeal, complaining of the inadequate compensation granted by the learned Judge, 9th Motor Accident Claims Tribunal, Alipore, South 24 Parganas in its award dated September 01, 2017 in M.A.C. Case No. 4 of 2017.

The appellants state that the victim who was an employee of Help Tourism Pvt. Ltd., died at the age of 38 years. Accordingly, the claimants are entitled to 40% on account of future prospects of the victim and Rs. 70,000/- under collective heads of general damages in view of the law as it stands now after the judgments in 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 and submits that the multiplier in the instant case should have been 15 instead of 16, which had been adopted by the leanred Court below. Further no amount has been deducted under the head of professional tax of the victim, in spite of specific evidence by PW3 that professional tax was being deducted from the monthly salary of the deceased.

The impugned award is thus modified and the claimants are found entitled to a total amount of Rs. 22,32,160/- together with interest thereon at the rate of 6% per annuam 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.12,870/- per month, after deduction of Rs. 130/- as professional tax. Upon adding 40% on account of future prospects of the victim, the amount comes to Rs. 18,018/-. After annualising such amount and deducting 1/3rd on account personal expenses, it is the figure of Rs. 1,44,144/- on which the multiplier of 15 would be applied. The net pecuniary compensation comes to Rs. 21,62,160/-. The appellants are also entitled to general damages of Rs. 70,000/- on account of loss of consortium, loss of estate and funeral expenses, taking the gross compensation to Rs. 22,32,160/- together with interest at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge receipt of a sum of the entire awarded amount minus interest. The balance sum of Rs.4,40,660/- would become payable to the appellants together with interest assessed at the rate 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 Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made in the same proportion as 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 shall be no further 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.)