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(Via Video Conference)

F.M.A.T 1266 OF 2019

Smt. Pushpa Bauri
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Subhankar Mandal
...For the Appellant/
Claimant

Mr. Afroz Alam
...For the Respondent/
Insurance Company

The appeal is directed against the judgment and order dated 30th September, 2019 passed by the Learned Judge, M.A.C. Tribunal, 4th Court, Asansol, Paschim Bardhaman in M.A.C. Case No. 20 of 2016 (Smt. Pushpa Bauri –vs- Kakali Roy &Anr.).

The facts of the case are not in dispute.

The claim was filed under Section 163A of the M. V. Act, 1988. The Learned Advocate for the appellant/claimant submits that the Learned Tribunal committed error in law while Learned Tribunal committed error in law by applying multiplier 13 considering age of the mother but fact remains that at the time of accident the deceased was 28 years old and as II Schedule of M.V. Act, 1988 the appropriate multiplier is 18.

The Learned Tribunal also committed error in law while deducting 50% income towards personal expenses but as per II Schedule of M.V. Act the Learned Tribunal ought to have deducted 1/3rd income towards personal expenses.

In turn the Learned Advocate for the respondent insurance company submits that the award passed by the Learned Tribunal is absolutely just and there is no scope of any further enhancement of the award.

Be that as it may, considering the rival submissions of the parties as well as judgment of Hon'ble Apex Court as well as general practice of our High Court, above award passed by the Tribunal below is modified and recalculated as follows:

Particulars	Amount (Rs.)
Monthly Income	3,000/
Annual Income (x 12)	36,000/
Less 1/3rd deduction towards personal expenses	12,000
Loss of annual dependency	24,000/
Multiplier 18	4,32,000/
General damages	4,500/
Total	4,36,500/

Since the entire amount of Rs.2,38,500/ together with interest that has been awarded by the court below has been paid by the insurance company, the differential amount which comes to Rs. 1,98,000/ together with 6% interest from date of claim application till payment which shall be paid to the claimants in the same manner as indicated in the award within 30 days of receipt of particulars of their bank accounts to be supplied by his counsel to the counsel for the insurance company.

It is made clear that the payments shall be made by NEFT/ RTGS in the proportion as ordered 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.

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.)