Ct No 26 | 09.7 2021

9 Sc

F.M.A.T 1317 of 2019
(Via Video Conference)

Purnima Paul & Ors.
Vs.
National Insurance company Ltd. & Anr.

Mr. Muktakesh Das
...For the Appellants/Claimants

Mr. P. K. Pahari
...For the respondent No.1/ Insurance Co.

This instant appeal has been filed by the appellants/claimants against the judgment and award dated January 24, 2019 passed by the learned Additional District Judge, 5th Court, Nadia at Krishnagar in M.A.C. Case No. 11 of 2017 on a claim under Section 166 of the Motor Vehicles Act, 1988 for the accidental death of Gopal Paul on October 8, 2016.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the M. V. Act, 1988. Mr. Das, counsel appearing on behalf of the appellants/claimants submits that the tribunal committed an error in law while assessing the income of the deceased at Rs.4500/- instead of Rs.9000/- per month.

He also submits that the tribunal committed an error in law while not granting additional 10% on the income towards future prospect since the deceased was 54 years old, self-employed person.

Mr. Das also submits that the tribunal committed an error in law while granting Rs.58,000/- instead of Rs.70,000/- towards general damages.

He further submits that the tribunal committed an error in law while not granting interest on the awarded sum from the date of filing of the claim application till its realisation.

Mr. Pahari, counsel appearing on behalf of the respondent no. 1/ Insurance Company submits that the tribunal is just in not assessing the monthly income of the deceased at Rs.9000/- since the appellants/claimants have failed to produce any cogent evidence before the tribunal to establish the monthly income of the deceased.

Be that as it may, considering the submissions of the parties as well as the judgments of the Hon'ble Supreme Court and general practice of this Court the award passed by the tribunal is modified and recalculated as follows :

Monthly Income	Rs.5,000/-
Annual Income	Rs.60,000/-
Add 10% Future Prospect	Rs.6,000/-
Total Income	Rs.66,000/-
Less Personal Expenses 1/4th	Rs.16,500/-
Annual Loss of Dependency	Rs.49,500/-
Multiplier 11(Rs.49,500X11)	Rs.5,44,500/-
Add General Damages	Rs.70,000/-
Total Compensation	Rs.6,14,500/-

(a) Mr. Das submits that the appellants/claimants have received the awarded sum of Rs.5,03,375/- without any interest and also submits that they are entitled to get interest @6% per annum on the said sum of Rs.5,03,375/- till payment of the same.

(b) Mr. Das also submits that the appellants/claimants are also entitled to get a sum of Rs.1,11,125/- (Rs.6,14,500 – Rs.5,03,375/-) together with interest @6% per annum from the date of filing of the claim application till payment to the appellants/claimants.

The Insurance Company is directed to pay as stated in paragraphs (a) and (b) to the appellants'/claimants' bank accounts directly within a period of four weeks from date of furnishing their bank details.

The appellants/claimants are directed to furnish their bank details to the Insurance Company within two weeks from date.

With the aforesaid direction, the instant appeal is disposed of.

There shall 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.)