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(via video conference)

FMA 15 OF 2021

Najimddin Mohammad & Anr.
-vs.-
The United India Insurance Company
Limited, Raiganj Branch & Anr.

Mr. Saidur Rahaman
.......For the Appellants/
Claimants

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

The appellants/claimants are aggrieved by the inadequate compensation granted by the tribunal in its award dated March 28, 2019 in M.A.C. Case No. 170 of 2017, on a claim under Section 163A of the Motor Vehicles Act, 1988 for the death of their son in a road accident which took place on July 16, 2017.

Two points have been mainly raised by the appellants/claimants in the instant appeal. It is submitted on behalf of the appellants/claimants that the income of the victim should have been taken to be Rs.3,300/- per month instead of Rs. 3,000/-. Further, the deduction on account of personal expenses of the victim should have been 1/3rd instead of 1/2, as deducted by the tribunal. Accordingly, a lesser quantum of compensation has been erroneously awarded by the tribunal.

Counsel appearing on behalf of the Insurance company says that the victim was a 17 years old minor and there was no evidence as to the monthly income of the victim. The insurance company maintains that in such a scenario, the income of the victim cannot be assessed at more than Rs.3000/- per month on a notional basis.

For the year 2017, in a claim under section 163A of the Motor Vehicles Act, 1988, a sum of Rs.3,300/- per month does not appear to be exorbitant as the claimants can avail a maximum of Rs.40,000/- per annum as per the said Act.

However, as to the multiplier, the insurance company states that the appropriate multiplier of 16 should have been adopted instead of 18 and a total of Rs.4,500/- should have been awarded on account of collective heads of general damages in this case.

The appellants/claimants have agreed that the multiplier of 16 should be applied and the quantum awarded on account of general damages will stand reduced to Rs.4,500/-.

The impugned award is thus modified and the appellants/claimants are found entitled to a total sum of Rs.4,26,900/- 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.

Taking the monthly income of the victim to be Rs. 3,300/- and after annualising such sum and deducting 1/3rd on account of personal expenses, it is the figure of Rs.26,400/- on which the multiplier of 16 will have to be applied. The net pecuniary compensation comes to Rs.4,22,400 /-. The appellants are also entitled to general damages of Rs.4,500/- on account of loss of estate and funeral expenses, taking the gross compensation to Rs.4,26,900/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim application till the date of receipt of the said sum.

The appellants/claimants acknowledge receipt of a sum of the entire awarded amount along with interest. The balance sum of Rs. 97,400/- would become payable to the appellants 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 in the proportion decided by the tribunal.

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

There shall be no further order as to costs.

Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Shekhar B. Saraf J.)