04.08.2021
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(Via Video Conference)

F.M.A.T. 1393 of 2019

I.A. CAN 1 of 2021

Rubi Naskar & ors.
Vs.
Bajaj Allianz General Insurance Co. Ltd.

Mr. Ashique Mondal ... For the Appellants/claimants

Mr. Rajesh Singh ... For the respondent/Insurance Co.

The appeal is directed against the judgment and order dated 16th January, 2019 passed by Learned Judge, Motor Accident Claims Tribunal, Fast Track, 5th Court, Alipore, South 24 Parganas in M.A.C. Case No. 69 of 2015. The facts of the case are not in dispute. The claim was filed under Section 166 of the Motor Vehicles Act, 1988 in connection with a vehicular accident dated 11th September, 2015.

In the instant appeal, claimants have challenged the quantum of compensation on various grounds. It is submitted on behalf of the appellants that the monthly income of the victim, as considered by the learned Judge was inadequate. Further, the claimants were not given any amount under 'future prospect'. Lastly, claimants pleaded that the full components of general damages were not granted. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the learned Advocate representing the Insurance Company argues that the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgements 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,** I find substance in the arguments of the appellants on the point of future prospects, which ought to have been awarded. The monthly income of Rs.4,000/- of the deceased as mentioned by the claimants in the claim application and also reflected in oral evidence of PW1 and PW2 has duly been accepted by the Court below. Appellants are also entitled to Rs.70,000/- under collective heads of general damages.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	**Amount (Rs.)**
Monthly Income	4,000/-
Annual Income	48,000/-
Add - 40% income for future prospects (Rs.19,200/-)	67,200/-
Less - 1/3rd for personal expenses (Rs.22,400/-)	44,800/-
Multiplier (16)	7,16,800/-
Collective General Damages	70,000/-
Total	7,86,800/-

The claimants acknowledge receipt of the awarded amount of Rs.5,62,000/- along with interest. Accordingly, the balance enhanced sum of Rs.2,24,800/- would become payable to the appellants by the insurance company, 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. Learned Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to learned advocate for the insurance company. The payment shall be made in the proportion decided by the Court below.

During the pendency of the appeal, the appellant /respondent no. 2, being the mother of the deceased died. To put it on record, an application being CAN No. 1 of 2021 has been filed by the learned Advocate for the claimants. It is submitted that the only surviving heirs of the deceased mother, are already on record and arrayed as appellant nos. 1 and 3.

Accordingly, the name of appellant no. 2 be struck off and be substituted by appellant nos. 1 and 3. The share of compensation of appellant no. 2 should be equally distributed among the appellant nos. 1 and 3.

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.)