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(Via Video Conference)

F.M.A. 3259 of 2013
with
I.A. No. CAN 1 of 2015
(Old No.CAN 40 of 2015)

Sefali Debnath & Ors.
Vs.
IFFCO Tokio General Insurance Co. Ltd. & Anr.

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

Mr. Rajesh Singh
...For the Respondent/ Insurance Company.

The appeal is directed against the judgment and order dated February 27, 2013 passed by the Motor Accident Claims Tribunal and Additional District Judge, 3rd Court, Nadia, Krishnagar in M.A.C. Case No. 75 of 2010, on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 35 years old 'Sahadeb Debnath' in a road accident dated January 25, 2010.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants/claimants that the notional annual income of Rs.15,000/- of the victim as considered by the learned Judge was inadequate. Further, the appellants/claimants were not granted any amount under 'future prospect'. The appellants/claimants also submit that they were erroneously given only Rs.9,500/- instead of Rs.70,000/- under the full component of 'general damages'. It is the case of the appellants/claimants that in view of four number of dependents claimants, the deduction for 'personal expenses' should have been 1/4th of the income of the deceased. Lastly, appellants/ claimants have pleaded that the learned Judge erred in not granting 'interest' on the compensation amount. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the tribunal.

Per contra, learned advocate representing the insurance company argues that in the facts and circumstances of the instant case and considering the judgements of Hon'ble Supreme Court prevailing at the time of passing of the award, the compensation 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***, and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants/claimants. For the year 2010, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.3,000/- per month does not appear to be exorbitant. The appellants/claimants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.70,000/- under collective heads of general damages. The deduction for personal expenses must be 1/4th of the victim's income. The appellants/claimants would be entitled to interest on the compensation amount.

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

Particulars	**Amount (Rs.)**
Monthly Income	Rs.3,000/-
Annual Income	Rs.36,000/
Less 1/4th for personal expenses (Rs.9,000/-)	Rs.27,000/-
Add 40% future prospect (Rs.10,800/-)	Rs.37,800/-
Multiplier '16'	Rs.6,04,800/-
Add 'General Damages'	Rs.70,000/-
Total Principal Compensation	Rs.6,74,800/-
Less – awarded by Tribunal and paid by insurer	Rs.1,69,500/-
Balance (enhancement)	Rs.5,05,300/-

The appellants/claimants acknowledge the receipt of the awarded amount of Rs.1,69,500/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.5,05,300/- would become payable to the appellants/claimants by the respondent/insurance company, together with interest assessed at the rate of 6% per annum on and from the date of filing of the claim application within a period of 45 days from the date of receipt of the bank account particulars of the appellants/ claimants. If it is found that appellants/claimants did not receive any interest on the awarded and paid amount of Rs.1,69,500/-, insurer shall pay interest on the said amount at the same rate of interest, i.e., 6% per annum as directed above, from the date of filing of claim application till the date of payment.

Learned advocate for the appellants/claimants is directed to forward the bank account details of the appellants/claimants within a fortnight from date to the learned advocate for the insurance company. The payment shall be made in the 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 department concerned is directed to tag the applications, if any, with the main appeal.

There shall be no order as to costs.

The department is directed to send down the LCR.

Photostat certified copy of this order, if applied for, be furnished upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)