

Ct. 09.11
No. 26 2021
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akb

F.M.A. 3252 of 2013
Smt. Chhabi Barui @ Chabbi Barui & Ors.
Vs.
National Insurance Co. Ltd. & Anr.

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

Ms. Sucharita Paul **...For the Respondent/Insurance Co.**

The above appeal has been filed by the claimants against the judgment and order dated July 20, 2013, passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court, Barasat, North 24-Parganas, in M.A.C. Case No. 7 of 2010, on a claim under Section 166 of the Motor Vehicles Act, 1988.

The appellants state that the deceased was earning Rs.5,000/- per month. However, the Court below erroneously took the income at Rs.1`5,000/- per annum. It is further submitted that the multiplier in the instant case should be 18 instead of 13, in accordance with the judgment passed by the Hon'ble Supreme Court in the cases of *Smt. Sarala Verma & Ors. -Vs.- Delhi Transport Corporation & Anr.*, reported in (2009) 6 SCC 121. The appellants are also entitled to 40% on account of future prospect and a total sum of Rs.30,000/- as non-pecuniary expenses, in view of the decision of the Hon'ble Supreme Court in the case of *National Insurance Company Limited -Vs.- Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680. It is further stated that a sum of Rs.1.25,575/- had been spent for the medical treatment of the victim. However, the Court below erroneously allowed only Rs.15,000/- on such head.

Ms. Surachital Paul, learned Counsel appearing on behalf of the insurance company argues that the learned Tribunal rightly accepted the annual income of the victim to be Rs.15,000/-, in absence of proper documentary evidence.

This Court is inclined to accept the arguments made by the Insurance Company. However, it is now accepted in this Court for some time that till the year 2010, the base income has to be taken at Rs.3,000/- per month, since even an unskilled labour could earn such amount if working on all days of the month. Therefore, the income ought to be Rs.3,000/- per month.

On the ground of medical expenditure, it is found that the final bill issued by CMRI Hospitals, amounting to Rs.1,25,575/-, was produced and proved by the record keeper (PW3) of the said Hospital. Although the learned Tribunal Judge held that patient party paid Rs.1,25,575/- to CMRI Hospitals for medical expenses,. Yet it granted only Rs.15,000/- on the said head. This is erroneous. Therefore, this Court is of the view that the claimants are entitled to a sum of Rs.1,25,575/- as medical expenses.

The other grounds, raised by the appellants, being addition of income on account of future prospect and collective heads of general damages, are also allowed. The multiplier of 18 would be applicable in this case.

Accordingly, on such basis and considering the submissions as advanced by the learned Counsel for the parties, the impugned award is modified and reassessed as follows :

Monthly Income	Rs. 3,000/-
Add: 40% future prospect	Rs. 1,200/-
	Rs. 4,200/-
	X 12
	Rs. 50,400/-
50% deduction (personal Expenses)	Rs. 25,200/-
	Rs. 25,200/-
Use Multiplier (18) (25,200 X 18)	Rs. 4,53,600/-
Collective head of General Damages	Rs. 30,000/-
	Rs. 4,83,600/-
Medical Expenses	Rs. 1,25,575/-
	Rs. 6,09,175/-

Less : Awarded amount	-	<u>Rs. 1,17,000/-</u>
Differential Amount	=	Rs. 4,92,175/-

The claimants acknowledges receipt of the entire awarded amount of Rs. 1,17,000/- along with interest. The balance of Rs. 4,92,175/- would become payable to the claimants by the Insurance Company together with interest assessed @ 6% per annum, from the date of filing of the claim petition within a period of 45 days from the date of receipt of the particulars of the bank account of the appellants/claimants. Learned Counsel for the claimants will forward the bank account details of the claimants within a fortnight from date to the learned Counsel for the Insurance Company. The payment shall be made in the proportion decided by the Court below.

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

In view of disposal of the appeal, all connected applications, if any, are also disposed of. The concerned Department is directed to trace out the applications and tag with this 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.)