S/L 3
02.8.2021
Court No.26
SD

FMAT 1727 of 2008
With
CAN 1 of 2017
(Old CAN 7411 of 2017)
(Via Video Conference)

Smt. Parul Bala Karmakar & Ors.
Vs.
Sri Tarakeshwar Pradad Mahato & Anr.

Mr. Ali Imam Shah
Mr. Jayanta Kumar Mondal
... for the Appellants/Claimants.
Mr. K.K. Das
... for the Respondent/Insurance Co.

The appeal is directed against the judgment and award dated March 17, 2008 passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court, Burdwan in M.A.C. Case No.9 of 2007/536 of 2006 in a claim under Section 166 of the Motor Vehicles Act, 1988 for death of one Ajit Kumar Karmakar in a road accident that occurred on 27.8.2006.

The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988. Counsel appearing on behalf of the appellants/claimants submits that the Tribunal has committed an error in law while applying the multiplier 5 instead of 9.

Counsel for the appellants/claimants further submits that the Tribunal has committed an error in law while not granting 15% additional income towards future prospect since the deceased Ajit Kumar Karmakar was a school teacher and had a permanent job.

He further submits that the Tribunal has committed error in law while deducting 1/3rd instead of 1/4th income of the deceased towards personal expenses since the deceased left five dependants behind him. He also submits that the Tribunal has committed error in law while granting Rs.7,500/- instead of Rs.70,000/- towards general damages.

In reply counsel appearing on behalf of the respondent/insurance company submits that the award passed by the Tribunal is absolutely just and there is no scope of interference and/or modification of award.

Considering the judgment 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 ***Smt. Ashoka Mitra & Anr. vs. Sri Nanku Gupta & Anr.*** reported in ***2014 (4) T.A.C 584 (Cal)***, the future prospect and multiplier are taken into consideration.

Accordingly, the impugned award is modified and recalculated as follows:-

Particulars	Amount (Rs.)
Monthly Income (after deduction Tax & P.Tax)	16,158.00
Annual Income (16,158 x 12)	1,93,896.00
15% additional income towards future prospect	29,084.00
Total annual income (1,93,896 + 29,084)	2,22,980.00
Less: 1/4th deduction	55,745.00
Less: Annual dependency	1,67,235.00
Multiplier by 9 (1,67,235 x 9)	15,05115.00
General damages	70,000.00
Total	15,75,115.00

Mr. Saha acknowledges that his clients have already received the awarded amount of Rs.6,60,000/-. Accordingly, the balance enhanced sum of Rs.9,15,115/- would become payable to the claimants by the Insurance Company together with interest assessed @ 6 per cent per annum on and from the date of filing of the claim petition within 45 days from the date of receipt of the bank account particulars of the claimants. Counsel for the claimants will forward the bank account details of the claimants within a fortnight from date to the counsel for the Insurance Company.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as ordered by the Court below.

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

There shall be no order as to costs.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)