04.08.2021
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(Via Video Conference)

F.M.A. 194 of 2021

I.A. No. CAN 2 of 2020

United India Insurance Co. Ltd.
Vs.
Santana Chowdhury & ors.

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

Mr. Saidur Rahaman
... for the respondents/claimants

The appeal of Insurance Company is preferred against the judgment and award dated December 20, 2019 passed by the Learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track, 2nd Court, Malda, in MAC Case No. 31 of 2018 under Section 166 of the Motor Vehicles Act, 1988 praying for compensation for the death of one 41 years old 'Dwijen Chowdhury', who died in a road accident dated January 1, 2018.

The learned Advocate for the appellant has challenged the quantum of compensation mainly on the ground that the assessment of compensation on the basis of income of the deceased at Rs.350/- per day, in absence of proper evidence, was erroneous. As an additional ground, insurance company disputes the involvement of offending vehicle in the accident for the reason that the registration number of the said vehicle as mentioned in the 'First Information Report' did not match with the charge sheet.

The learned Advocate for the claimants/ respondents submit that Learned Tribunal erred in deducting 1/3rd of the income of the deceased for 'personal expenses', in spite of the fact that there were four (4) numbers of dependents. It is further submitted that Court below was not specific in fixing the rate of 'interest' on the compensation amount.

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 appellant. For the year 2018, in a claim under section 166 of the Motor Vehicles Act, 1988, in absence of any evidence, an amount of Rs.5,000/- per month appears to be just and reasonable. Claimants are however justified in asking for 1/4th deduction of the income of the deceased on the ground of 'personal expenses'. This court also considers that rate of 'interest' should be 6% per annum on the compensation amount, to be calculated from the date of filing of claim case till realization. As the seizure list, charge sheet and statement of eye witness, all confirm that the offending vehicle was involved in the accident, insurer's plea of 'non-involvement' of the vehicle does not hold any good.

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

Particulars	**Amount (Rs.)**
Monthly Income	Rs.5,000/-
Annual Income	Rs.60,000/-
Less 1/4th for personal expenses (Rs.15,000/-)	Rs.45,000/-
Add 25% future prospect (Rs.11,250/-)	Rs.56,250/-
Multiplier '14'	Rs.7,84,000/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.8,54,000/-

Accordingly, the said amount of Rs.8,54,000/- would become payable to the claimants/respondents by the Insurance Company, together with interest assessed at the rate of 6 percent 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 bank account details of the claimants. The learned Advocate for the appellants will forward the bank account details of the claimants within a fortnight from the date to the learned Advocate for the Insurance Company. The payment shall be made directly in the bank accounts of the claimants through NEFT/RTGS, in the proportion decided by the Court below.

Insurance Company is given liberty to withdraw the statutory deposit of Rs.25,000/- along with the accrued interest from the Registrar General of this Court.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, connected application, if any, are also disposed of. The department concerned is directed to tag the applications, if any, with the main file.

There will be no order as to costs.

Urgent Photostat certified copy of the order, if applied for, be given to the parties, upon compliance of formalities on priority basis.

(Shekhar B. Saraf, J.)