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(Via Video Conference)

F.M.A.T 422 OF 2020
with
I. A. No. CAN 1 OF 2020

National Insurance Co. Ltd.
Vs.
Smt. Sumita Hemram & Ors.

Mr. Sanjay Paul

...For the Appellant/
Insurance Co.

Mr. Anup Kumar Bag

...For the Respondents/
Claimants

This instant appeal case filed by the National Insurance Co. Ltd. against the award and/or Judgment dated 20th June, 2020 passed by the Additional District & Sessions Judge, M.A.C. Tribunal, Fast Track 3rd Court, Paschim Medinipur in M.A.C. Case No. 119 of 2018 (R.135/2018) (Smt. Sumita Hemram & Ors. -vs- Dipak Mahata & Anr.), The facts of the case are not in dispute.

The claim was filed under Section 166 of the M. V. Act, 1988. The Learned Advocate for the appellant/insurance company submits that the Learned Tribunal committed error in law while assessing monthly income of the deceased Rs.7,000/ but fact remains that the claimants failed to produce any cogent evidence to establish income of the deceased.

The Learned Advocate for the appellant/insurance company further submits that the Learned Tribunal Learned Tribunal ought to have deducted 1/3rd income

of the deceased towards personal & living expenses instead of Rs.2,000/ on lump sum basis.

The Learned Advocate for the appellant/insurance company further submits that the Learned Tribunal Learned Tribunal ought to have granted 10% instead of 15% additional income towards future prospect of the deceased.

The Learned Advocate for the appellant/insurance company further submits that the Learned Tribunal ought to have granted Rs.15,000/ instead of Rs.60,000/ towards loss of estate;

The Learned Advocate for the respondents/claimants submit that to prove income of the deceased, the claimants produced one salary certificate issued by the employer of the deceased whereby said employer certified that the salary of the deceased was Rs.7,000/ p.m. The said salary certificate was marked as exhibit-10 without objection. No contra evidence as adduced by the insurance company to discard the said evidence.

After considering the rival submissions of the parties as well as findings of the Learned Tribunal, this Court finds that the Learned Tribunal was just while assessing monthly income of the deceased Rs.7,000/ on the basis of the certificate issued by the employer since said salary certificate was marked as exhibit-10 without any objection as well as no contra evidence as adduced by

the insurance company to discard the said evidence.

Regarding other points as raised by the appellant, the Learned Advocate for the respondents/claimants fairly conceded over those issues and left the matter before the decision of this Court.

Be that as it may, considering the rival submissions of the parties as well as judgment of Hon'ble Apex Court as well as general practice of our High Court, above award passed by the Tribunal below is modified and recalculated as follows:

Monthly income	Rs.7,000/
Annual Income	Rs 84,000/
Future prospect 10%	Rs.8,400/
Total income	Rs.92,400/
Less personal expenses (1/3 rd)	Rs 30,800/
Annual loss of dependency	Rs 61,600/
Multiplier 11 (Rs. 61,600/ x 11)	Rs. 6,77,600/
General Damages	Rs 70,000/
Total compensation =	Rs.7,47,600/

The Learned Advocate for the respondents/claimants acknowledges that her clients have not yet received any compensation in terms of the award dated 20.06.2020 passed by the Learned Tribunal.

The Appellant submits that they have already deposited the statutory amount of Rs.25,000/ before this Hon'ble Court. Therefore, the appellant/insurance company is directed to pay a sum of Rs.7,47,600/

together with 6% interest from the date of filing of claim application till payment to the claimants within 45 days of receipt of particulars of their bank accounts to be supplied by his counsel 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.

The appellant/insurance company shall be at liberty to withdraw the statutory amount of Rs.25,000/ together with accrued interest thereon from the Learned Registrar General, High Court, Calcutta after payment to the claimants.

With the aforesaid directions, the instant appeal stand disposed of. Accordingly connected application is also disposed of.

There will 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 formalities.

(Shekhar B. Saraf, J.)