Ct. No. 26

16 akb

16.9 2021

F.M.A.T. 552 of 2020

Tapan Mahata & Anr.
Vs.
Oriental Insurance Co. Ltd. & Ors.
(Via Video Conference)

Mr. Subhankar Mandal ...For the Appellants /Claimants

Ms. Sayantika Santra ...For the Respondent/Insurance Co.

This appeal is directed against the judgment and award dated July 15, 2020 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Paschim Medinipur, in M.A.C. Case No. 109 of 2018, in a claim under Section 166 of the Motor Vehicles Act, 1988 for the accidental death of Uttam Mahata, on February 04, 2018, who left behind his parents.

The facts of the case are not in dispute.

The learned Counsel for the appellants/claimants submit that the learned Tribunal committed error in law while not assessing the monthly income of the deceased Rs.6,500/- instead of Rs.4,000/- on the basis of uncontroverted oral evidence as adduced by the widow of the deceased. He further submits that the learned Tribunal committed error in law while assessing compensation as no additional amount towards future prospect was considered.

The Insurance Company is represented. In turn, the learned Counsel for the respondent Insurance Company submits that the award passed by the learned Tribunal has allowed Rs.2,65,000/- towards general damages, which is absolutely unjust and there is no scope of any further enhancement of the award.

Considering the decisions pronounced by the Hon'ble Apex Court in cases of ***Smt. Sarala Verma & Ors. -Vs.-***

Delhi Transport Corporation & Anr., reported in **(2009) 6 SCC 121** and in the case of ***National Insurance Company Limited -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. For the year 2018, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. Appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased.

Therefore, the impugned award is thus modified and recalculated as stated hereinafter :

Monthly Income	**Rs. 5,000/-**
Annual Income (5,000 X 12)	**Rs. 60,000/-**
Add 40% future prospects	**Rs. 24,000/-**
Total income	**Rs. 84,000/-**
After 50% deduction the figure comes (personal Expenses)	**Rs. 42,000/-**
Loss of annual dependency	**Rs. 42,000/-**
Use Multiplier (18) (42,000 X 18)	**Rs. 7,56,000/-**
Add: General Damages	**Rs. 30,000/-**
Principal Compensation	**Rs. 7,86,000/-**

Mr. Mandal acknowledges that his clients have already received a sum of Rs. 6,97,000/- together with interest that has been paid by the Insurance Company. The differential amount which comes to Rs.89,000/- together with 6% interest on and from the date of filing the claim petition till the payment, shall be paid to the claimants by the respondent Insurance Company in the same manner and proportion as decided by the Court below within 45 days from the date of receipt of the particulars of their bank accounts to be supplied by their learned Counsel to the learned Counsel for the Insurance Company.

It is made clear that the payment shall be made directly through NEFT/RTGS to the bank accounts of the claimants/appellants.

With the aforesaid directions, the instant appeal being F.M.A.T. 552 of 2020 shall stand disposed of.

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

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.)