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March 24, 2021.
AKG

CALCULTTA HIGH COURT
In the Circuit Bench at Jalpaiguri

FMAT 35 of 2019

(Through Video Conference)

Pushpa Kumari Sharma & Ors.
-vs.-
The National Insurance Company Ltd. & Anr.

Mr. Subir Banerjee,
Mr. Abhijit Raha
…for the Appellant.
Ms. Supriya Singh
…for the Respondent National Insurance.

This is an appeal against the award dated December 10, 2018 passed in MACC No. 204 of 2016.

In terms of the judgments reported at *(2017) 16 SCC 680 (National Insurance Company Limited v. Pranay Sethi)* and *JT 2009 (6) SC 495 (Smt. Sarla Verma v. Delhi Transport Corporation),* the award impugned in this appeal requires to be modified.

It appears that the tribunal erred in making the award without adding future prospect at the rate of 40 per cent since the age of the victim was 28 years old at the time of accident. The tribunal ought to have deducted one-fourth on account of personal expenses instead of one-third.

It has been fairly submitted by the learned advocate for the claimants that the applicable multiplier in this case should have been 17 instead of 18 as applied by the tribunal. The claimants were further entitled full complement of Rs. 70,000/- on account of general damages.

The award passed by the learned tribunal below is accordingly modified as follows:-

Taking the monthly income of the deceased to be Rs. 6,000/- per month and a further 40 per cent had to be added thereto on account of future prospect. Thus the figure arrived at is Rs. 8,400/-. After deducting one-fourth for personal expenses, the figure comes down to Rs. 6,300/-. Therefore, the annual income of the deceased becomes Rs. 75,600/- upon which the multiplier of 17 is to be applied and Rs. 70,000/- is to be added on account of general damages taking the amount to Rs. 13,55,200/-.

The claimants will be entitled to the aforesaid amount together with interest @ 7 per cent per annum from the date of lodging of the case before the tribunal till the actual payment is made.

The appellants acknowledge having received the entire amount as awarded by the tribunal.

The insurance company will calculate the balance amount due to the appellants in terms of this order and make over such amount to the appellants in equal share. The payment should be made directly to the bank accounts of the appellants within 45 days from date.

The bank account details of the appellants should be forwarded by the advocate for the appellants to the advocate for the insurance company within a fortnight from date.

FMAT 35 of 2019 is disposed of without any order as to costs.

(Kausik Chanda, J.)