05
March 25, 2021.
AKG

CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri

FMAT 47 of 2019

(Through Video Conference)

Smt. Prabhabati Goswami & Ors.
-vs.-
United India Insurance Company Limited & Anr.

Mr. Krishanu Banik,
Mr. Gobinda Ghosh,
Mr. Tamal Kr. Sen,
Mr. Priyankar Dey,
Mr. Milan Chandra Laskar.
…for the Appellants.
Mr. Biswajit Das

…for the Insurance Company.

Mr. Biswajit Das, learned advocate for the insurance company, prays for adjournment on behalf of the Insurance Company. Since this appeal can be decided in the light 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),* such prayer for adjournment is rejected.

The order dated 6th July, 2017 passed by the tribunal below in MAC Case No. 207 of 2014 suffers from several errors.

The monthly income of the deceased was assessed as Rs.3,000/- by the tribunal. In my view, keeping in mind the monthly income of an unskilled labourer and the prevailing price index, the monthly income of the deceased, who died at the age of 32 years should have been Rs. 4,500/-.

The tribunal also ought to have taken into account the future prospects of the deceased and also awarded the full complement of general damages in computing the award.

Accordingly, appellants will be entitled to an award of Rs.9,77,200/-as per the calculation given below:

Taking the monthly income of the deceased to be Rs. 4,500/-. After annualising such amount and adding 40 per cent on account of future prospect and deducting one fourth on account of personal expenses, it is the figure of Rs. 56,700/- which is arrived at upon which multiplier of 16 is to be applied. The appellants are further entitled to general damages of Rs. 70,000/-. Therefore the total compensation amount will be Rs. 9,77,200/-.

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 47 of 2019 is disposed of without any order as to costs.

(Kausik Chanda, J.)