

04.03.2022
Item No.40
Ct. No.7
CHC
(disposed of)

**F.M.A.1162 of 2021
IA NO: CAN/1/2021
(Physical Hearing)**

**Suchitra Pal & anr.
Vs.
The National Insurance Company Limited & anr.**

Mr. Amit Ranjan Roy
...for the appellants/claimants

Mr. Sanjay Paul
...for the respondent no.1/
Insurance Company

Learned advocate for both the parties are ad
idem on the point that the instant appeal may be
disposed of giving a go by to the technicalities
involved in the process.

It is submitted by Mr. Amit Ranjan Roy, learned
advocate for the appellants/claimants that
appellants/claimants have been suffering from
financial distress for want of sufficiency of money for
their sustenance in this pandemic, and urges the
Court for disposing of the appeal on the basis of
materials furnished by both the parties to the case,
which is not opposed by the learned advocate
representing the Insurance Company/respondent
no.1.

When learned advocates for both the parties are agreeable to the expeditious disposal of the instant appeal, the Court should not stand in the way.

The instant appeal has emerged out against the judgement and award dated 29th day of November, 2019, passed by the learned Judge, Motor Accident Claims Tribunal/Additional District Judge, 3rd Court, Krishnagar, Nadia, in Motor Accident Claim Case/Suit No.227 of 2017, on a claim under Section 166 of the Motor Vehicles Act, 1988, granting award to the tune of Rs.2,62,000/- to the dependants/claimants of the deceased, Mantulal Pal @ Mantu Pal, who was aged about 58 years, for a vehicular accident, occurred on 29th June, 2017, by reason of involvement of vehicle bearing No.WB-25D/5674 in consequence of rash and negligent driving.

Mr. Amit Ranjan Roy, learned advocate representing the appellants/claimants primarily urges grounds in support of this appeal, which are three-folds.

It is contended by the appellants/claimants that the learned Tribunal has erred in law in assessing the monthly income of the deceased earned at the relevant time of accident.

It is contended that the deceased was engaged as salesman of Loknath Enterprise, Birnagar at rail

bazaar and used to get salary of Rs.12,000/- considering the evidence as adduced by the appellants/claimants.

The second ground urged by the appellants/claimants is that no future prospect was granted by the learned Tribunal to the claimants/appellants on the income of the deceased victim leading to inadequate quantification of the award, which can hardly be regarded to be just and proper.

It is further submitted by Mr. Roy that since the deceased was aged about 58 years old, and engaged in self employment, the learned Tribunal ought to have granted 10% additional income towards future prospect.

The third ground urged by the appellants/claimants is that learned Tribunal has erroneously chosen multiplier 8, but appropriate multiplier ought to have been selected to 9.

Per contra, Mr. Sanjay Paul, learned advocate for the respondent no.1/Insurance Company submits that award has been rightly decided after considering the pros and cons of the case. Thus, according to Insurance Company/respondent no.1, there lies nothing to be interfered with in the impugned judgement, and as such there is no scope for making any modification by this Hon'ble Court.

Since it is a piece of social legislation, proper multiplier should be chosen, otherwise there will be inadequate quantification of award.

Facts leading to the death of the deceased are not at all disputed.

Reliance is placed on the decisions reported in ***Smt. Sarla Verma & ors. vs. Delhi Transport Corporation & anr.***, reported in **(2009) 6 SCC 121** and ***National Insurance Company Limited vs. Pranay Sethi & ors.***, reported in **(2017) 16 SCC 680** to fortify the submission raised in context with the points involved in this appeal.

Having considered the submission of the both sides, as well as the proposition of law laid down by the Apex Court in cases of ***Smt. Sarla Verma (supra) and Pranay Sethi (Supra)*** as well as general precedence of our High Court, the Court is of the view that there is strong force in the submission of the learned advocate appearing for the appellants/claimants. The award granted by the learned Tribunal needs modification with respect to monthly income, and the same is to be considered at Rs.5,000/- per month upon considering the price index, the then prevailed. The said amount does not seem to be exorbitant, as the salesman in 2017 can be reasonably expected to be having an income of Rs.5,000/- per month. In addition,

claimants/appellants would also be entitled to 10% “future prospect”.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter:-

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly Income	Rs.5,000/-
Annual Income (Rs.5,000/- X 12)	Rs.60,000/-
Less: Deduction 1/3 (-)	Rs.20,000/-
	Rs.40,000/-
Future prospect 10% (+)	Rs.4,000/-
Loss of Annual Dependency	Rs.44,000/-
Multiplier (Age 58 years)	X 9
	Rs.3,96,000/-
Add: General Damages (+)	Rs.70,000/-
Total Compensation	Rs.4,66,000/-
Tribunal Award (-)	Rs.2,62,000/-
Balance	Rs.2,04,000/-

The claimants/appellants acknowledge the receipt of the entire awarded amount of Rs.2,62,000/- together with interest. The enhanced sum of Rs.2,04,000/- would become payable to the claimants/appellants by the respondents no.1/Insurance Company together with interest assessed at the rate of 6% per annum on and from the date of filing of the claim petition till payment within a period of 45 days from the date of receipt of the bank account particulars of the claimants/appellants from the learned advocate of the appellants/claimants.

The payment is to be made in the proportion as already directed by the learned Tribunal directly into the bank accounts of claimants/appellants by NEFT/RTGS.

With the aforesaid directions, the instant appeal is disposed of.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

The concerned department is directed to tag the applications, if any, with the main appeal.

There shall be no order as to costs.

L.C.R., if any, may be returned back to the court below, if received in the meantime.

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

(Subhasis Dasgupta, J.)