16 AGM *RKB* *Ct* *07*

11.01.2022

FMA 1038 of 2021
With
IA No: CAN 1 of 2021

Amrita Singh and Ors
Vs
The Oriental Insurance Company Limited & Anr

(Via Video Conference)

Mr. Subhankar Mondal,
... For the Appellants.

Mr. Parimal Kumar Pahari,
... For the Respondents.

Learned advocate for both the parties conjointly urges for expeditious disposal of this appeal, even going to the extent of giving a go by to the technicalities involved in the process.

Mr. Subhankar Mondal, learned advocate appearing for the appellants/claimants submits that all the relevant papers necessary for adjudication of this appeal are with him, and the same may be furnished, which is not opposed by Mr. Parimal Kumar Pahari, learned advocate appearing for the respondents/Insurance Company.

When both the parties are ad idem on this issue, the Court finds no wrong in taking up this appeal for the financial sufferings, faced by the claimants/appellants.

Primarily, two grounds are urged in this appeal pertaining to non-consideration of future prospects and deduction of personal expenses to the extent of 1/3 of the deceased, which should have been ¼ instead of 1/3.

Mr. Mondal submits that the grant of future prospect has already been addressed by the Apex Court, and it is the settled proposition of law that future prospects should be granted in an appropriate case. Mr. Mondal to support his submission has referred a decision reported in **(2013) 7 SCC 476** delivered in the case of **Vimal Kanwar –Vs- Kishore Dan,** wherein it was propounded that compassionate appointment, if given, cannot be construed to be a bar in granting additional amount towards future prospects.

According to Mr. Mondal, the Court below has erred in law in refusing future prospects upon erroneous consideration of a fact that one of the claimants has already been favoured with compassionate appointment.

Mr. Mondal has further submitted that learned Tribunal has committed erred in law, while deducting 1/3 instead of ¼ of income of the deceased towards the personal expenses, which should have been ¼ bearing in mind the dependants left behind by the deceased.

Per contra, Mr. Pahari representing the Insurance Company submits that learned Tribunal has considered the pros and con of the case and rightly decided the appeal granting adequate compensation, and there is no scope for making any enhancement towards the quantum of compensation, as proposed by learned advocate for the appellants.

The attention of this Court is drawn to the judgments rendered in case of **Smt. Sarla Verma & Ors Vs Delhi Transport Corporation & Anr** reported in **(2009) 6 SCC 121** and **National Insurance Company Ltd Vs Pranay Sethi & Ors** reported in **(2017) 16 SCC 680**, which are obviously operative over the field of granting future prospects and the deduction applicable towards the personal expenses of the deceased.

Having considered the submissions of the learned advocate for the appellants and upon perusal of the judgments referred hereinabove, there is strong force in the submission advanced by learned advocate for the appellants. There is thus justification to re-visit the award in context with aforesaid decisions so as to make the award just, proper and perfect.

Accordingly the impugned award is modified and recalculated in the manner referred hereinabove:

Monthly income	Rs. 24,286/-
(gross income less tax) Rs. 24,286/-	
Annual income	Rs 2,91432/-
(Rs. 24,286 X 12)	
Add 50% future prospects	Rs.1,45,716/-
Total income	Rs. 4,37,148/-
Less personal expenses (1/4th)	Rs 1,09,287/-
Loss of annual dependancy	Rs. 3,27,861/-
Compensation (multiplier 17)	Rs. 55,73,637/-
Add general damages	Rs. 70,000/-
Total compensation	Rs. 56,43,637/-

The claimants acknowledge receipt of the awarded amount of Rs. 33,72,930/- along with interest. Accordingly, the balance enhanced sum of Rs. 22,70,707/- would become payable to the appellants by the Insurance Company, together with interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition within a period of 45 days from the date of receipt of bank account particulars of the appellants. Learned advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to learned advocate for the insurance company. The payment shall be made in the proportion decided by the Court below by any NEFT or RTGS.

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

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

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

The Lower Court Records, if received, be returned to the learned Court below with the copy of this order.

There will be no order as to costs.

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

(Subhasis Dasgupta, J)