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**CALCUTTA HIGH COURT**
**In the Circuit Bench at Jalpaiguri**

**FMAT 11 of 2020**

**Smt. Nilima Roy**
**-vs.-**
**Union of India**

Mr. Gobinda Saha,
Mr. Tamal Kumar Sen,
Ms. Priyanka Dey
…for the Appellant
Mr. Sudipto Kumar Mazumdar,
Mr. Sourab Kar
…for Union of India

This is an appeal arising out of an award dated February 3, 2020 passed in M.A.C. Case No. 379 of 2014. The award of the tribunal needs to be modified in view of the judgment reported at **(2017) 16 SCC 680** ***(National Insurance Company Limited Vs. Pranay Sethi)*** *and* **(2009) 6 SCC 121** ***(Sarla Verma (Smt) Vs. Delhi Transport Corporation)***.

The tribunal has failed to apply correct multiplier in this case. The applicable multiplier should have been 18 instead of 15 since the deceased was aged about 19 years.

The tribunal also failed to award compensation under the heading general damages. In the facts of the case, the tribunal ought to have awarded Rs. 30,000/- on account of loss of estate and funeral expenses.

Accordingly, the award of the learned tribunal is modified below.

The monthly income of the deceased was taken to be Rs. 6,000/- per month by the tribunal. Therefore, after adding 40 per cent as future prospect with the annualised income, the figure arrived at is Rs.1,08,000/-. After deduction of 50 per cent on account of personal expenses, the figure comes to Rs. 50,400/- upon which the multiplier of 18 is to be applied and Rs. 30,000/- on account of general damages needs to be added. Therefore, the figure comes to Rs. 9,37,200/-.

It was the finding of the tribunal that there was contributory negligence on the part of the deceased because he was a pillion rider of the relevant motorcycle without any helmet.

The tribunal was, therefore, justified in deducting 20 per cent on account of contributory negligence.

After deduction of 20 per cent, the compensation amount is, therefore, Rs.7,49,760/-.

The claimant will be entitled to the aforesaid amount together with interest @ 8 per cent per annum as granted by the tribunal from the date of lodging of the case before the tribunal till the actual payment is made.

The appellant acknowledges having received the entire amount awarded by the tribunal.

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

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

**FMAT 11 of 2020** is, thus, disposed of.

There will be no order as to costs.

Urgent photostant certified copy of this order, if applied for, be given to the parties, upon compliance of all requisite formalities.

**(Kausik Chanda, J.)**