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Ct. No. 1

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

F.M.A.T. (MV) 10 of 2022
With
IA No. CAN 1 of 2022
Anushri Hazary
Vs.
United India Insurance Co. Ltd.

Mr. Gobinda Saha
Mr. Tamal Kumar Sen
Mr. Milan Chandra Laskar
Ms. Priyanka Dey ...For the Appellant/Claimant

Mr. Bipul Ranjan Bhattacharya ...For the Respondent / Insurance Co.

The appeal is directed against the judgment and award dated March 30, 2019 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track Second Court, Jalpaiguri, in M.A.C. Case No. 235 of 2015.

Various points have been raised by the claimant in the instant appeal challenging the quantum of compensation.

It is submitted on behalf of the appellant that the monthly income of Rs.3,000/- of the victim, as considered by the learned Judge was inadequate. Further, the appropriate multiplier in the instant case should have been '17' and not '16' as applied by the learned Judge. Lastly, the claimant pleaded that no interest has been given by the learned Tribunal. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

Mr. Bhattacharya, the learned Counsel appearing on behalf of the Insurance Company submits that in the facts and circumstances of the case, the learned Tribunal was correct in the assessment of compensation as awarded.

Considering the decision of the Hon'ble Apex Courtin the case of ***Pranay Sethi Vs. National Insurance Co. Ltd. & Anr.,*** reported in ***2017 (4) TAC 673*** and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellant. For the year 2015, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 4,500/- per month does not appear to be exorbitant. Considering the 30 years of the age of the victim, the appropriate multiplier of '17' is to be used and the claimant should also be entitled to interest @ 6% per annum from the date of filing i.e. from 09.06.2015 till final realization. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter :-

Monthly Income	=Rs. 4,500/-
Yearly Income **(4500 x 12)**	=Rs. 54,000/-
Future Prospect be Be assessed 40% i.e. (Pranay Sethi)	=Rs. 21,600/-
Total Income i.e.	=Rs. 75,600/-
Less. 1/3rd deduction on On account of own Personal living expenses (75600-25200)	=Rs. 50,400/-
Using multiplier as per age of 30 years	=Rs. 8,56,800/-
General damages as per Pranay Sethi case is Rs.75000 (40000 for consortium, 15000 for loss of Estate, 15000 for funeral expenses)	=Rs. 70,000/-
Total of The claimant before the death of The victim deceased	=Rs. 9,26,800/-
Less awarded amount	=Rs. 6,07,600/-
	=Rs. 3,19,200/-

The claimant acknowledges receipt of the awarded amount of Rs.6,07,600/- as directed by the Tribunal. Accordingly, the balance enhanced sum of Rs.3,19,200/- would become payable to the appellant 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 the bank particulars of the appellant.

Learned Counsel for the appellant will forward the bank account details of the appellant within a fortnight from the date to the learned Counsel for the Insurance Company.

The Insurance Company is granted liberty to realize the total amount from the owner as per law.

With the aforesaid directions the instant appeal is disposed of. In view of disposal of the appeal, all connected applications, if any, are also disposed of.

There shall be no further order as to costs.

LCR, if any, may be returned back to the Court below.

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

(Shekhar B. Saraf, J.)