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Ct. No. 1

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

F.M.A.T. 28 of 2019
Jharna Sarkar
Vs.
Swapan Dey & Ors.

Mr. Kalyan Kumar Chakraborty
Mr. Prokash Saha ...**For the Appellant/Claimant**

Mr. Gobinda Saha ...**For the Respondent / Insurance Co.**

The appeal is directed against the judgment and award dated August 30, 2014 passed by the learned Judge, the Court of Additional District Sessions Judge-cum-Motor Accident Claims Tribunal, Alipurduar, in M.A.C. Case No. 23 of 2007.

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 yearly income of Rs. 1,14,310/- of the victim, as considered by the learned Judge was inadequate. Further appropriate multiplier in the instant case should have been '17' and not '15' as applied by the learned Judge. Lastly, the claimant pleaded that full component of compensation under collective heads of general damages should have been Rs.30,000/-. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

Mr. Saha, learned Counsel appearing on behalf of the Insurance Company submits that in the facts and circumstance of the case the learned Tribunal was corrected in the assessment of compensation has awarded.

Considering the decision of the Hon'ble Apex Court in the case of ***Pranay Sethi Vs. National Insurance Co. Ltd. & Anr.,*** reported in **2017 (4) TAC 673** and ***Smt. Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.***, reported in **(2009) 6 SCC 121** 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 2002, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 3,000/- per month does not appear to be exorbitant. Considering the 18 years of the age of the victim, the appropriate multiplier of '30' is to be used and the claimant should also be entitled to Rs.4,500/- as full component of general damages. Accordingly**,** the impugned award is modified and recalculated in the manner referred hereinafter :-

Annual Income (30 years age)	=Rs. 1,14,310/-
Less: Standard Deduction	=Rs. 1,500/-
	=Rs. 1,12,810/-
Add: 50% future prospect	=Rs. 56,405/-
	Rs. 1,69,215/-
Less: 50% bachelors Personal & Living Expenses	=Rs. 84,605/-
	=Rs. 84,610/-
Use multiplier 17	=Rs.14,38,370/-
Add: General damages	=Rs. 30,000/-
Total Compensation	=Rs.14,68,370/-
Less awarded amount	=Rs.10,01,773/-
	=Rs. 4,66,597**/-**

The claimant acknowledges receipt of the awarded amount of Rs.10,01,773/- as directed by the Tribunal. Accordingly, the balance enhanced sum of

Rs.4,66,597/- 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.

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.)