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10.11.2022
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CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri

FMAT (MV) 15 of 2022

Sudhir Kumar Barman @ Sudhir Ch. Barman & Anr.
-vs.-
The New India Assurance Company Limited & Anr.

Mr. Gobinda Saha,
Mr. Tamal Kumar Sen,
Mr. Milan Chandra Laskar,
Ms. Priyanka Dey
…for the Appellants
Mr. Rishin Chakraborty
…for the New India Assurance Company

This is an appeal arising out of an award dated May 30, 2022 passed in M.A.C. Case No. 343 of 2019. 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)***.

Firstly, the tribunal has taken the income of the deceased to be Rs. 3,300/- per month, who was a thirty two year old bachelor. If the monthly income of an unskilled labourer and the prevailing price index had been considered, the tribunal should have treated the monthly income of the deceased at least as Rs.6,000/- per month.

The tribunal also erred in not adding 40 per cent of the annual income as future prospects keeping in mind the age of the victim.

It has been fairly pointed out by Mr. Saha, learned advocate appearing for the appellants that the tribunal applied the wrong multiplier of 17 which ought to have been 16. It has further been fairly submitted by Mr. Saha that on account of general damages, the tribunal has awarded Rs.7,000/-, which should have been Rs. 30,000/- since the deceased was a bachelor and there could not be any compensation on account of loss of consortium.

The award passed by the tribunal below is accordingly modified as follows:

Taking monthly income of the deceased to be Rs. 6,000/- per month and after adding a further 40 per cent on account of future prospects, the figure arrived at is Rs. 8,400/-. After deducting 50 per cent on account of personal expenses, the figure comes down to Rs. 4,200/-. Therefore, the net annual income of the deceased becomes Rs. 50,400/- to which the multiplier of 16 is to be applied, and after adding Rs. 30,000/- on account of general damages, the figure is arrived at Rs. 8,36,400/-.

The appellants will be entitled to the aforesaid amount together with interest @ 7 per cent per annum from the date of lodging of the case before the tribunal till the actual payment is made.

The appellants acknowledge having received the entire amount awarded by the tribunal.

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

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

FMAT (MV) 15 of 2022 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.)