

26.07.2023  
SL No.11  
Court No. 551  
Ali

**IN THE HIGH COURT AT CALUTTA  
Civil Appellate Jurisdiction**

**FMA 716 of 2013**

**Smt. Reboti Das & Anr.  
Vs.  
Narayan Chandra Saha & Anr.**

Mr. L.M. Ghosh  
..... for the appellants-claimants.

Mr. S.N. Ganguly  
...for the respondent-insurance Co.

The instant appeal is preferred against the judgment dated 5<sup>th</sup> of August, 2008 passed by the learned Judge, Motor Accident Claims Tribunal, FTC, 2<sup>nd</sup> Court, Barasat, 24-Parganath (North) in M.A.C. Case no. 299 of 2007.

The claimants are appellants before this court. The claimants are the fateful parents who preferred an application under Section 166 of M.V. Act before the tribunal for getting compensation on the ground that their son died in a road traffic accident. The occupation of their deceased son was stated to be a van rickshaw puller.

The insurance company contested the matter before the learned tribunal and after hearing the parties the learned tribunal has allowed the claim case and directed the insurance company to pay the compensation amounting to Rs. 1,12,000/- alongwith interest @ 9% per annum from the date of filing of the application. The appellants are before

this appellate court for enhancement of the award. Some innocuous grounds were assigned before this appellate court by the filing of the memo of the appeal. Firstly, that the learned tribunal has considered the notional income of the deceased to be Rs. 15,000/-. It is the submission of the learned advocate for the appellant that by virtue of the judgment of Hon'ble Apex Court passed in **Sarla Verma and Pranay Sethi** the notional income of the deceased should be Rs. 3,000/- per month.

Learned advocate for the insurance company raised an objection and submitted before this court that the impugned judgment was passed prior to the judgment of the Hon'ble Supreme Court passed in **Pranay Sethi** so the principle of **Pranay Sethi** cannot be applicable.

Heard the learned advocate perused the materials on record it appears to me that the constitution Bench of the Hon'ble Supreme Court in **Pranay Sethi** has specifically formulated that the principle laid down therein regarding the notional income, future prospect as well as the general damage is applicable all pending cases and appeals under the Motor Vehicles Act. Thus in my view the submission of the learned advocate for the appellant has got merit and the instant award passed by the learned tribunal need be modified. Hence the instant appeal is appears to be meritorious and

entertainable. Thus the award is recasted as follows.:-

**Calculation of compensation**

1. Monthly Income .....Rs.3,000/-
2. Annual Income  
...(Rs.3,000/- X 12)..... Rs.36,000/-
3. Less: deduction 50%.....Rs. 18,000/-
4. Multiplier apply 18  
( Rs.18,000/-X 18).....Total Rs.....Rs.3,24,200/-
5. Add: Future prospect 40%.....Rs. 1,29,600/-  
General Damage.....Rs. 30,000/-  
Total .....Rs. 4,83,600/-  
Already received.....Rs. 1,12,000/-  
Balance compensation amount.....Rs.3,71,600/-

The insurance company is directed to pay the balance amount alongwith interest @ 6% per annum from the date of filing of the claim application i.e. from 09.01.2007. The insurance company is further directed to pay the amount within eight weeks from the date of passing of this order with the office of learned Registrar General, High Court, Calcutta. On such payment the office of the learned Registrar General, High Court, Calcutta shall disburse the same in the name of the claimants vide two equal account payee cheques/Bank Draft as early as possible subject to ascertainment of payment of requisite court fees.

The instant FMA is disposed of.

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

**(Subhendu Samanta, J.)**