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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 115 of 2024

Fatema Bibi @ Biswas & Anr.

-Vs-

The New India Assurance Co. Ltd. & Anr.

For the Appellant/claimants : Mr. Saidur Rahaman

For the respondent/Insurance co. : Mr. Animesh Das

Heard on : 06.08.2024

Judgment on : 06.08.2024

Ananya Bandyopadhyay, J. :-

1. The instant appeal has been filed being aggrieved by the impugned judgment and award passed by the learned Additional District & Sessions Judge, 3rd Court, Krishnagar, Nadia in M.A. C. Case No. 300 of 2016 under Section 166 of the Motor Vehicles Act.
2. Considered the rival contentions of the learned advocates for the appellants/claimants as well as respondent/insurance company.
3. The occurrence of the accident is not disputed nor the driving licence and insurance policy was objected to by the Learned Advocate for the respondent/insurance company.

4. The impugned order and judgment had taken into consideration the necessary elements for computing the compensation to be granted in view of the judgment of the Hon'ble Supreme Court reported in New India Assurance Co. Ltd. Vs Pranay Sethi & Ors. as well as Sarala Verma & Others Vs. Delhi Transport Co. & Anr. considering the heads of future prospect and general damages, and the application of the correct multiplier. The learned advocate for the appellants/claimants disputed the monthly income as computed by the learned tribunal to be Rs.6,634/- in accordance with the provisions under Section Minimum Wages Act. The evidence of P.W. 2 evidenced to be the person to have recruited the victim to work in his company i.e. Greet Tech Agri Sector Private Ltd as a labour contractor. The said company was owned by one Firoz Khan. P.W.2 who claimed himself to have employed the deceased victim to work under him could not produce any documentary evidence or salary slip amounting to Rs. 15,000/- per month payable to the deceased victim nor did he establish his stance of being a labour contractor working at Greet Tech Agri Sector Private Ltd. The learned tribunal has vividly and reasonably determined the income of the victim as aforesaid and has calculated the compensation and this Court is not inclined to interfere with the instant appeal.
5. With the above observation, the instant appeal is dismissed.
6. The interim order if any stands vacated.

7. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)