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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT(MV) 300 of 2024

Akirul @Akherun Bibi & Ors.
-Vs-
United India Insurance Co. Ltd. & Anr.

For the Appellant/claimants	:	Mr. Muktakesh Das Ms. Sonali Bag
For the respondent/Insurance co.	:	Ms. Sucharita Paul
Heard on	:	26.07.2024
Judgment on	:	26.07.2024

Ananya Bandyopadhyay, J. :-

1. The instant appeal has been filed against the order and judgment dated 13th March, 2024 passed by the learned Motor Accident Claim Tribunal cum District Tribunal, Krishnanagar in M.A.C. Case No. 20 of 2021 whereby the learned tribunal awarded a compensation of Rs. 3,37,000/- at the rate of 6% per annum from the date of filing of the claim application on 04.01.2021 till the date of actual realization.
2. The appellants/claimants had filed a claim application under Section 166 of the Motor Vehicles Act praying for compensation of Rs. 6,00,000/- along with interest on the death of the victim who incurred an accident on 06.07.2018 at about 11.00 hours.

The victim plying his motorcycle bearing No. WB5252C/5002 eventually collided with another motorcycle bearing No. WB52AL/2153 approaching from the opposite direction at the juncture of B.D.O. office. The victim was admitted at Nadia District Hospital wherefrom he was referred to NRS Hospital, Kolkata and subsequently expired on 07.07.2018 at about 7.00 A.M.

3. The learned tribunal framed the issues and considering the evidence on record disposed the aforesaid claim application and determined the amount of compensation which had been the subject matter of dispute in the instant appeal. The pivotal ground taken by the appellants/claimants in the instant appeal is restricted to the income which accordingly must have been Rs.5000/- per month instead of Rs. 3000/- per month since the deceased victim dealt in the business of seasonal crops.

4. The learned advocate for the respondent/insurance company did not object to the occurrence of the accident, driving licence, route permit etc. other components involved in calculating the awarded amount. A person dealing in the business in seasonal crops can earn a sum of Rs. 5000/- per month and the same can be readily accepted to be his monthly income.

5. Considering the observation of the Hon'ble Supreme Court reported in *National insurance company Ltd. Vs. Pranay Shetty & Anr.*[1]

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1 2017(4)TAC 673(S.C)

6. The impugned award of Rs. 5,29,300/- is modified as follows:-

Monthly Income	Rs. 5,000/-
Add: Future prospect (10%)	Rs. 500/-

	Rs. 5,500/-
Annual Income	X 12

	Rs. 66,000/-
Multiplier to be "9"	X 9

	Rs.5,94,000/-
Less: ¼ for Personal Expenses	Rs.1,18,500/-

	Rs.4,45,500/-
Add: General Damages (Rs.70,000 + 20% Escalation)	Rs. 84,000/-
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	Rs.5,29,500/-
Less: Principal Award Received	Rs.3,37,300/-

Entitlement	**Rs.1,92,200/-**
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7. It was further submitted by both the learned advocates as aforesaid that the appellants/claimants have already received a sum of Rs. 3,37,000/-. The appellants/claimants were entitled to receive the balance amount of Rs. 1,92,200/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

8. The Insurance Company is to deposit the balance amount of Rs. 1,92,200/- along with interest at the rate of 6 % per cent per annum as aforesaid before the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order.
9. The Registrar General, High Court, Calcutta shall encash the cheque stipulating the entire calculated amount as aforesaid and thereafter disburse the same to the present appellants/claimants in the proportion as mentioned in the impugned judgment dated 13.03.2024 passed by the MAC Tribunal-Cum- District Judge, Krishnagar, Nadia on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Court fees.
10. The instant appeal is disposed of accordingly.
11. The interim order if any stand vacated.
12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)