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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 796 of 2023

Sagarika Patra & Ors.

-Vs-

Royal Sundaram Alliance Insurance Company Ltd. & Anr.

For the Appellant/claimants : Mr. Soumalya Ganguly

For the respondent/insurance co. : Mr. Rajesh Singh

Heard on : 07.08.2024

Judgment on : 07.08.2024

Ananya Bandyopadhyay, J. :-

1. The instant appeal has been filed against the judgment and order dated 21st December, 2021 passed by the Court of Motor Accident Claims Tribunal cum learned Additional District & Sessions Judge, 5th Additional Court, Purba Bardhaman in M.A.C. Case No. 18 of 2016 whereby the learned tribunal awarded a compensation of Rs. 30,25,836/-.
2. The appellants/claimants had filed an application under Section 166 of the Motor Vehicles Act before the learned tribunal with regard to the death of the victim in an accident which occurred on 18th November, 2015 due to rash and negligent act of the offending vehicle being Tata Maximo bearing registration No. WB-39B/0658 which hit the victim proceeding on the left side of

NH2 road on 18.11.2015 at about 12.15 hours over bridge under the jurisdiction of Budbud Police Station, District Burdwan. The victim eventually succumbed to his injuries at the age of 52 years who had been employed as police personal(driver) under the Superintendent of Police, Bankura and his salary was Rs. 34,384/- per month.

3. The Learned Advocate for the appellants/claimants submitted that the learned tribunal erred in not granting future prospect as well as considered 1/3rd deduction towards personal expenses instead of 1/4th of the same disregarding the number of dependents/claimants to be 4. The Learned Advocate for the respondent/insurance company did not dispute the contentions of the learned advocate for the appellants/claimants. Therefore, this Court restrict itself only to the extent of modifying the compensation of the award passed by the learned tribunal. The learned tribunal apparently did not consider the aspect of future aspect as well as the extent of deduction with regard to the number of dependents. The occurrence of the accident with the involvement of offending vehicle as well as other ancillary issues have not been disputed except the issues of dependency as stated above.
4. Considering the observation of the Hon'ble Supreme Court reported in *National insurance company Ltd. Vs. Pranay Shetty &*

*Anr.*¹, the impugned award of Rs. 30,25,836/- is modified as follows:-

Monthly Income	Rs. 34,384/-
Annual Income	X 12

	Rs. 4,12,608/-
Add: Future prospect (15%)	+ 61,891/-

	Rs. 4,74,499/-
Less: ¼ for Personal Expenses	-Rs.1,18,624/-

	Rs. 3,55,875/-
Multiplier to be "11"	X 11

	Rs. 39,14,625/-
Add: General Damages	Rs. 77,000/-

	Rs.39,91,625/-
Less: Principal Award Received	Rs.30,95,836/-

Entitlement	Rs.8,95,789/-

5. It was further submitted by both the learned advocates as aforesaid that the appellants/claimants were already received a sum of Rs. 30,95,836/-. The appellants/claimants have entitled to receive the balance amount of Rs. 8,95,789/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

6. The respondent/Insurance Company is to deposit the balance amount of Rs. 8,95,789/- 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.
7. On receipt of the said amount, the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants/claimants in the proportion as mentioned in the award granted by the Court of Motor Accident Claims Tribunal cum learned Additional District & Sessions Judge, 5th Additional Court, Purba Bardhaman, on proof of proper identification of the appellants/claimants.
8. The instant appeal is disposed of accordingly.
9. The interim order if any stand vacated.
10. The lower court records be sent down forthwith to the concerned tribunal.
11. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)