(2019) 09 CAL CK 0299

In the Calcutta High Court

Case No : C. Appeal From Order (FMA) No. 215 Of 2001

Sabitri Acharya And Others — APPELLANT

Vs

New India Assurance Co. Ltd. And Another — RESPONDENT

Date of Decision : 24-09-2019

Acts Referred:

Citation : (2019) 09 CAL CK 0299

Hon'ble Judges : Sanjib Banerjee, J;Suvra Ghosh, J

Bench : Division Bench

Advocate : Krishanu Bank, K.K. Das

Final Decision : Disposed Of

Judgement

The claimants are in appeal upon being aggrieved by the tribunal's failure to appropriately ascertain the monthly income of the victim at the time of his death, the tribunal's failure to award compensation on account of future prospects, the tribunal applying a lower multiplier and the tribunal failing to award general damages.

It is evident from the impugned award that the gross monthly salary of the victim at the time of his death was Rs.11,529/-. However, the tribunal deducted the house rent allowance and medical allowance, which was impermissible. The only deduction that can be made is on account of taxes. After deducting the tax component of Rs.100/-, the net monthly income of the victim comes to Rs.11,429/-or, Rs.1,37,148/- on an annual basis. The victim died at the age of 50 years and nine months. Thus, 15 per cent of the annual income has to be taken into account for future prospects. The total notional annual income, thus, comes to Rs.1,57,720/-from which one-fourth has to be deducted since the claimants are the widow of the victim and his three children. It is such balance amount of Rs.1,18,290/- on which the multiplier of 13 would apply since the victim was below the age of 51 years. The net compensation works out to Rs.15,37,770/-. After adding Rs.70,000/- on account of general damages, the gross compensation comes to Rs.16,07,770/-.The claimants will be entitled to interest on such sum at the rate of 8 per cent per annum from the date of lodging the claim till the receipt of payment.

The claimants acknowledge receipt of a sum of Rs.9,12,644/-in terms of the impugned award.

The insurance company should calculate the balance amount due in terms of this order, inclusive of interest, as on October 31, 2019 and make over the same to the individual claimants in equal share by November 15, 2019. For such purpose, Advocate for the claimants will furnish the bank account details of the individual claimants to Advocate for the insurance company within a fortnight from date.

FMA 215 of 2001 is disposed of without any order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

