

24.12.2020.
Item no. 80.
Court No. 13
sp

F.M.A.T. No. 56 of 2020
With
CAN 1 of 2020
(Old No. CAN 1319 of 2020)
with
CAN 2 of 2020
(Old No. CAN 1335 of 2020)

Sebak Das (Mandal) & Ors.
Versus
National Insurance Company Limited & Anr.

Mrs. Susmita Saha Dutta

..for the appellant/claimants.

Mr. Rajesh Singh

...for the respondent/Insurance company

Ref: CAN 1319 of 2020

CAN 1319 of 2020 has been filed seeking
condonation of delay of 70 days in filing FMAT 56
of 2020.

Sufficient grounds are made out in the
instant application explaining such delay. Hence,
the delay is condoned.

CAN 1319 of 2020 is disposed of.

By consent of parties, the appeal is treated
as on day's list and is taken up for hearing.

The Department is directed to issue FMA
number immediately.

The appeal is directed against the judgment
and order dated 11th June, 2019 passed by the
learned Judge, Motor Accident Claims Tribunal,

2nd Court, Raiganj, Uttar Dinajpur in M.A.C Case No. 131 of 2018.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the M.V. Act, 1988. The only issue is with regard to the monthly income of the deceased that was taken as Rs. 3,000/- per month. While it is true that there is no clear evidence of the claim made before the tribunal of Rs. 7,000/- per month as to be the income of the victim, this Court as per the practice followed has considered the income of the deceased is Rs. 5,000/- per month. It further appears that towards general damages, the tribunal has awarded a sum of Rs. 1 lakh.

It is now well settled in the decision of the Hon'ble Supreme Court in the case of ***National Insurance Company vs. Pranay Sethi*** reported in ***(2017) 16 SCC 680*** that general damages are required to be kept at Rs. 70,000/-.

Considering the above award passed by the tribunal below is modified and recalculated as follows,

Particulars	Amount (Rs.)
Monthly Income	5,000.00
Add: Future Prospect 40%	2,000.00
	7,000.00
Annual Income (x 12)	84,000.00
Less: 1/4 th for personal expenses	21,000.00
	63,000.00
Multiplier "16"	(x) 16
	10,08,000.00

Less - awarded amount already paid	5,32,000.00
Enhanced Principal amount	5,46,000.00

Since the entire amount has been awarded by the court below, has been paid by the insurance company, the differential amount which comes to Rs. 5,46,000/- which shall be paid to the appellants within 45 days of receipt of particulars of their bank accounts to be supplied by their counsel to the counsel for the insurance company. The amount awarded shall carry interest @ 7% per annum from the date of filing of the claim petition till the date of actual payment.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as ordered by the Court below.

With the aforesaid directions, the instant appeal shall stand disposed of.

In view of the disposal of the appeal itself, the connected application being CAN 1335 of 2020 shall also stand disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)

