

S/L 142
11.12.2020
Court No.13
SD

FMA 3674 of 2016
With
CAN 5054 of 2017
(Via Video Conference)

Maharam Bibi & Ors.
Vs.
The National Insurance Co. Ltd. & Ors.

Mr. Amit Ranjan Roy

...for the Appellants.

Mrs. Sucharita Paul

...for the Respondents.

In Re.: CAN 5054 of 2017:-

This application has been filed for expeditious hearing of the appeal.

Since the appeal itself is taken up for hearing, this application stands disposed of.

In Re.: FMA 3674 of 2016:-

The appeal filed by the claimant is directed against a judgment and award dated December 9, 2015 passed by the Motor Accident Claims Tribunal, Tamluk in M.A.C. Case No.61 of 2014.

The facts are undisputed by the parties and no issues arise therefrom and hence the same are not separately set out hereinbelow.

The only two grounds urged by the appellants are that the income of the deceased since the death occurred on November 30, 2013 should have been assessed at Rs.4,000/-

per month as per the practice followed by this Court whereas the Tribunal assessed the income at the rate of Rs.3,000/- per month. The general damages ought to have been Rs.70,000/- per month wherein in terms of the Supreme Court's decision in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi reported in (2017) 16 SCC 680** whereas the Court below had awarded only Rs. 25,000/-.

This Court is inclined to accept the submissions of the appellants in view of the decision of the Supreme Court in the case of Pranay Shethi (supra). The total compensation payable to the appellants is recalculated as follows:-

Income	=	Rs. 4,000 /-
(+) 10% towards future prospects	=	<u>Rs. 400/-</u> Rs. 4,400/- <u>x 12</u> Rs. 52,800/-
(-) 1/3rd for personal expenses	=	<u>Rs. 17,600/-</u> Rs. 35,200/-
Multiplier <u>x 11</u>	=	Rs. 3,87,200/-
(+) General Damages	=	<u>Rs. 70,000/-</u> Rs. 4,57,200/-

The appellants have already received the full amount awarded by the Court below, i.e., Rs.3,71,200/- together with interest. The balance sum of Rs.86,000/-would become payable to the appellants together with interest assessed at the rate of 7 per cent per annum on and from the date of filing of the claim petition.

The aforesaid sum of Rs.86,000/- shall be paid by the Insurance Company within a period of 45 days from the date. Learned Counsel for the claimants furnishes the particulars of their bank accounts to the learned Counsel for the Insurance Company. The payment shall be made in the proportion decided by the Court below.

In default of payment of the said sum within the period indicated hereinabove, the rate of interest stands increased to 8 per cent instead of 7 per cent.

With the aforesaid observations, the instant appeal stands 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 necessary formalities.

(Rajasekhar Mantha, J.)