

S/L 136
11.12.2020
Court No.13
SD

FMAT 750 of 2016
With
CAN 11672 of 2016
(Via Video Conference)

Smt. Chhabi Marandi
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy

...for the Appellants.

Mr. M.P. Chakraborty
Ms. Ratnadipa Karmakar
Mr. Subhabrata Ghosh

...for the Respondents.

In Re.: CAN 11672 of 2016:-

This application has been filed seeking condonation of delay of 277 days in preferring the appeal.

Sufficient grounds are available in the application explaining the delay. In addition thereto, counsel for the appellants has made detailed submissions.

This court finds that the delay is sufficiently explained and the same is condoned.

Accordingly, CAN 11672 of 2016 is allowed and disposed of.

In Re.: FMAT 750 of 2016:-

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

The department is directed to issue FMA number forthwith.

The appeal filed by the claimant is directed against a judgment and award dated July 17, 2015 passed by the Motor Accident Claims Tribunal, Asansol currently under Paschim Burdhaman in M.A.C. Case No.34 of 2010.

The facts are undisputed by the parties and hence the same are not separately set out hereinbelow.

The only two grounds urged by the appellant are that the deduction towards family expenses of the deceased under Section 163A of the Unamended Motor Vehicles Act, 1988 stipulates at Schedule 2 thereof that the same should be $\frac{1}{3}$ rd of the income. The Tribunal has erroneously deducted half of the victim's income, under such head. The multiplier applied by the Court below is 15, taken on the basis of the age of the mother of the victim. This is incorrect. The multiplier to be calculated under Section 163A ought to have been based on the age of the victim who was 20 years old and hence the multiplier ought to be 16 instead of 15.

This Court is inclined to accept the submissions of the appellant in this regard. The impugned judgment is modified. The compensation amount is recalculated and set out hereinbelow:-

Monthly Income	=	Rs. 3,000 /-
Yearly Income	=	Rs. 36,000/-
$\frac{1}{3}$rd for personal expenses	=	Rs. 24,000/-
Multiplier		
<u>x</u> 16	=	Rs. 3,84,000/-
Add: General Damages		

(2000 + 2500)	=	<u>Rs. 4,500/-</u>
Total Compensation	=	<u>Rs. 3,88,500/-</u>

The appellant has received a total sum of Rs.2,74,500/- together with interest as ordered by the Court below.

On the question of interest this Court is of the view that since the victim died in accident in question, the interest payable ought to be 7 per cent. The appellant shall be entitled to the differential amount of Rs.1,14,000/- together with 7 per cent interest from the date of filing of the claim petition in the Court below.

The appellant shall also be entitled to the 2 per cent additional interest awarded by this Court on the original sum of Rs.2,74,500/- already received by the appellant.

The total sum payable along with differential interest on the same already paid, shall be made over to the appellant in her bank account within 45 days of receipt of particulars thereof from the counsel for the appellant by the counsel of the insurance company.

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.)