S/L 126
11.12.2020
Court No.13
SD

FMAT 1291 of 2014
With
CAN 5287 of 2017
(Via Video Conference)

Lal Pari Das & Anr.
Vs.
The National Insurance Co. Ltd. & Ors.

Mr. Saidur Rahaman
... for the Appellants.

Mr. Sanjay Pal
... for the Respondents.

In Re.: CAN 5287 of 2017:-

This application has been filed for dispensation of service of notice of appeal and for expeditious disposal of the same.

In view of the appeal itself being taken up for hearing, CAN 5287 of 2017 stands disposed of.

In Re.: FMAT 1291 of 2014:-

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

The Department is directed to issue FMA number forthwith.

The appeal is directed against a judgment and award dated September 11, 2014 passed by the Motor Accident Claims Tribunal, 3rd Court, Balurghat in M.A.C. Case No.47 of 2010 filed under Section 163A of the unamended Motor Vehicles Act, 1988.

The facts are undisputed by the parties 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, who died on September 20, 2009 should have been assessed at Rs.3,000/- 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 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 Sethi (supra). The total compensation payable to the appellants is recalculated as follows:-

Income	=	**Rs. 3,000 /-**
Annual income	=	**Rs.36,000/-**
(-) 1/3rd for personal expenses	=	**Rs. 24,000/-**
Multiplier x 16	=	**Rs. 3,84,000/-**
(+) General Damages	=	**Rs. 4,500/-**
	=	**Rs. 3,88,500/-**
Less: Award	=	**Rs.2,72,000/-**
	=	**Rs.1,16,500/-**

The appellants have already received the full amount awarded by the Court below, i.e., Rs.2,72,000/- together with interest.

The balance sum of Rs.1,16,500/-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.1,16,500/- shall be paid by the Insurance Company within a period of 45 days from the date. The Learned Counsel for the claimants furnishes the particulars of their bank accounts to the learned Counsel for the Insurance Company.

In default of payment of the said sum within the period indicated hereinabove, the rate of interest shall stand 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.)