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(Via Video Conference)

F.M.A.T 24 OF 2020
with
I.A. No. CAN 1 OF 2020
(Old No. CAN 301 of 2020)

Basanti Maity & Ors.
-Vs.-
The National Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee
...For the Appellants/ Claimants.

Mr. Sanjay Paul
...For the Respondent/ Insurance Co.

I.A. No. CAN 1 of 2020
(Old No.CAN 301 of 2020)

This is an application for condonation of delay in filing the instant appeal.

On perusal of the pleadings, this Court is satisfied that cause shown for delay in filing of the appeal is sufficient and prayer for condonation of delay should be allowed.

Accordingly, the application for condonation of delay stands allowed.

<u>F.M.A.T 24 OF 2020</u>

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

The appeal is directed against the judgment and award dated September 11, 2019 passed by the learned Additional District and Sessions Judge, Motor Accident

Claims Tribunal, 3rd Court, Tamluk, Purba Medinipur in Motor Accident Claim Case No. 22 of 2017.

The facts of the case are not in dispute.

The claim application has been filed under Section 166 of the Motor Vehicles Act, 1988. The only issue is with regard to the monthly income of the deceased that was taken as Rs.3,000/- per month as to be the income of the victim. While it is true that there is no clear evidence of the claim made before the tribunal of Rs.2,00,000/- per annum as to be the income of the victim. This Court, as per the practice followed, has considered the income of the deceased as Rs.4,000/- per month. The tribunal has not considered the future prospect of the deceased. It also appears that towards general damages, the tribunal has awarded only a sum of Rs.4,500/- instead of Rs.70,000/-.

Counsel appearing on behalf of the parties submitted that the claimants are entitled to get compensation in view of the law as laid down in ***Smt. Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.*** reported in ***(2017) 16 SCC 680***.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter :

Particulars	Amount (Rs.)
Monthly Income =	Rs.4,000/-
Add 25% future prospect	Rs.1,000/-

	Rs.5,000/-
Annual Income (X 12)	Rs.60,000/-
Less 1/3rd for personal expenses	Rs.20,000/-

	Rs.40,000/-
Multiplier (13) – Rs.40,000/-X 13	Rs.5,20,000/-
Add General Damages	Rs.70,000/-

	Rs.5,90,000/-
Less – awarded amount already paid by the insurer	Rs.3,16,500/-
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Enhanced Principal Amount	Rs.2,73,500/-

Since the entire amount that has been awarded by the tribunal has been paid by the Insurance Company, the differential amount which comes to Rs.2,73,500/- shall be paid to the appellants/claimants within 45 days of receipt of the particulars of their bank accounts to be supplied by the counsel to the counsel for the Insurance Company.

Enhanced principal amount i.e., Rs.2,73,500/- shall carry interest @6% per annum from the date of filing of the claim application till the date of actual payment.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as has been directed by the tribunal.

With the aforesaid directions the instant appeal is disposed of.

LCR, if any may be returned back to the Court below.

In view of the disposal of this appeal, connected applications, if any, are also disposed of. The department concerned is directed to tag the applications, if any, with the main appeal.

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, on priority basis.

(Shekhar B. Saraf, J.)