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(Via Video Conference)

F.M.A.T 81 of 2020

with

CAN 1 of 2021

Ayan Sarkar & Anr.

Vs.

**Cholamandalam M.S. General
Insurance Company Limited
& Anr.**

Mr. Amit Ranjan Roy

...For the Appellants/
Claimants

Mr. Debanjan Mukherjee

....For the Respondent/
Insurance Company

CAN 1 OF 2021

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 being CAN 1 of 2021 stands allowed. The appeal is restored to its original file and number.

FMAT 81 OF 2020

The instant appeal has been filed by the appellants/claimants challenging the judgment and award passed by the learned Additional District Judge,

Motor Accident Claims Tribunal, 3rd Court, Krishnagar Nadia in M.A.C. Case No. 195 off 2017.

The claim application has been filed under Section 166 of the Motor Vehicles Act, 1988 in respect of an accident that took place on June 12, 2017.

The respondent/Insurance Company contested the claim case before the tribunal and insured not contested and on submission of the appellants/claimants, service of notice of appeal upon the insured/respondent no. 2 herein is dispensed with.

Mr. Debanjan Mukherjee, learned counsel is appearing on behalf of the respondent/Insurance Company.

The appellants/claimants have filed the appeal being aggrieved by the compensation granted by the tribunal in its award. The tribunal did not consider the actual monthly income of the deceased. The appellants/claimants further submits that they are entitled to 10% on account of future prospects and Rs.7000/- under collective head of general damages in view of the law laid down in ***Smt. Sarala Verma & Ors. -vs.- Delhi Transport Corporation & Anr.***, reported in ***(2009) 6 SCC 121*** and in ***National Insurance Company Limited -vs.- Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680***.

Mr. Roy, counsel appearing on behalf of the appellants/claimants submits that interest on the

awarded sum should have been granted from the date of filing of the claim case.

Counsel appearing on behalf of the Insurance Company opposes the submission of the appellants/claimants.

Heard counsel appearing on behalf of the parties. This Court is of the view as there is no conclusive proof of evidence in support of the income of the deceased, the income of the deceased is taken to be Rs.5000/- per month. After deducting one-third on account of personal expenses, the annual income of the deceased comes to Rs.40,000/- on which multiplier 7 will apply and 10% is added on account of future prospect. Thus the amount comes to Rs.3,08,000/- and upon adding Rs.70,000/- on account of collective heads of general damages, the gross amount comes to Rs.3,78,000/-.

At the outset it has been submitted by Mr. Roy that the appellants/claimants received the award of the tribunal with interest. The balance sum of Rs.2,03,000/- would become payable to appellants/claimants together with interest at the rate of 6% per annum from the date of filing of the claim application till its realisation.

The Insurance Company is directed to pay the amount of Rs.2,03,000/- with interest as indicated above to the appellants'/claimants' bank accounts directly within a month from date, in the same manner and proportion as decided by the tribunal.

The appellants/claimants are directed to furnish details of their bank accounts to the Insurance Company within fortnight from date.

The appeal is disposed of. Accordingly the connected application is also disposed of.

There shall be no order as to costs.

Photostat certified copy of this order, if applied for, be furnished upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)