S/L 14
21.6.2021
Court No.26
SD

FMAT 90 of 2020
With
CAN 1 of 2020
(Old CAN 1337 of 2020)
With
CAN 2 of 2020
(Old CAN 1343 of 2020)
(Via Video Conference)

Kanika Mondal & Ors.
Vs.
Oriental Insurance Co. Ltd. & Anr.

Mrs. Susmita Saha Dutta
Mr. Niladri Saha
... for the Appellants/Claimants.
Mr. Sanjay Paul
... for the Respondents/Insurance Co.

CAN 1 of 2020 (Old CAN 1337 of 2020):-

This is an application for condonation of delay of 178 days 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 condontion of delay should be allowed.

Accordingly, the application for condonation of delay being CAN 2 of 2021 stands allowed.

FMAT 90 of 2020:-

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

This appeal is directed against the judgment and award dated March 26, 2019 passed by the learned Judge, Motor Accident Claims Tribunal-cum-Additional District and Sessions Judge, 2nd Court, Raiganj, Uttar Dinajpur in M.A.C. Case No. 72 of 2018 under Section 166 of the Motor Vehicles Act, 1988.

The facts of the case are not in dispute. The only issue is with regard to the monthly income of the deceased that was taken as Rs.3,000/- per month. While it is true that there is no clear evidence of the claim made before the Tribunal of Rs.8,000/- per month as to be the income of the victim, this Court as per the practice followed has considered the income of the deceased is Rs.5,000/- per month. It further appears that towards general damages, the Tribunal has awarded a sum of Rs. 1 lakh.

It is now well-settled in the decision of the Hon'ble Supreme Court in the case of ***National Insurance Company vs. Pranay Sethi*** reported in ***(2017) 16 SCC 680*** that general damages are required to be kept at Rs.70,000/-.

Considering the above award passed by the Tribunal below is modified and recalculated as follows:

Particulars	*Amount (Rs.)*
Monthly Income	5,000.00
Add: Future prospect 40%	2,000.00
	7,000.00
Annual Income (x 12)	84,000.00
Less 1/3rd for personal expenses	28,000.00
	56,000.00
Multiplier (17)	x 17
Total	9,52,000.00
Less awarded amount already paid	5,08,000.00
Enhanced principal amount	4,44,000.00

Since the entire amount that has been awarded by the Court below has been paid by the Insurance Company, the differential amount which comes to Rs.4,44,000/- which shall be paid to the appellants within 45 days of receipt of particulars of their bank accounts to be supplied by their counsel to the counsel for the Insurance Company.

The amount awarded shall carry interest @ 6% per annum on the enhanced awarded sum from the date of filing of the claim petition till the date of actual payment.

It is made clear that the payments shall be made by NEFT/RTGS in the manner and proportion as provided in the award.

With the aforesaid directions, the instant appeal is disposed of.

There shall be no order as to costs.

In view of the disposal of this appeal, connected application, if any, is also disposed of.

Be it recorded herein that the counsel for the Insurance Company objected to the submission of the appellants for enhancement of the awarded sum and supported the award as passed by the Tribunal.

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.)