

Ct. 24.9
No. 2021
26
5
akb

F.M.A.T. 109 of 2017

With

IA No. CAN 1 of 2017 (Old No. CAN 4324 of 2017)

Gita Ghorai @ Ghodai

Vs.

Royal Sundaram Allianz Insurance Co. Ltd. & Anr.

(Via Video Conference)

Mr. Amit Ranjan Roy ...For the Appellant/Claimant

Mr. Rajesh Singh ...For the respondent/Insurance Co.

Re.: IA No. CAN 1 of 2017 (Old No. CAN 4324 of 2017)

This is an application for condoning the delay in filing the appeal. On perusal of pleadings, this Court is satisfied that the 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.

F.M.A.T. 109 of 2017

This appeal is directed against the judgment and award dated June 21, 2016 passed by the learned Additional District Judge, Motor Accident Claims Tribunal, 6th Court, Paschim Medinipur, in M.A.C. Case No. 287 of 2014, in a claim under Section 166 of the Motor Vehicles Act, 1988 on account of death of one 22 years old bachelor 'Bistu @ Jitu Ghorai', in a vehicular accident dated April 25, 2014.

Various points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellant that the learned Tribunal erred in law in not considering the 'future prospect' of the deceased. Further, claimant submits that considering 22 years of age of the deceased, the appropriate multiplier in the instant case should have been '18' instead of '17' as applied by the Tribunal. Lastly, claimant pleads that she was not granted

full component of Rs.30,000/- under the collective heads of 'general damages'. Accordingly, it is argued that a lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

The learned Counsel for the Insurance Company submits that in the facts and circumstances of the case, the award passed by the learned Tribunal is just and reasonable and there is no further scope of enhancement of the same.

Considering judgments of the Hon'ble Apex Court in the cases of *Smt. Sarala Verma & Ors. -Vs.- Delhi Transport Corporation & Anr.*, reported in (2009) 6 SCC 121 and in the case of *National Insurance Company Limited -Vs.- Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680, I find substance in the submissions of the appellant/claimant. The claimant is justified in praying for 40% addition on account of 'future prospect' on the income of the deceased. The multiplier should also be of 18 purchase factor and the appellant is entitled to get 'general damages' of Rs.30,000/- for the death of her bachelor son. The consideration of monthly income of Rs.4,500/- as already decided by the Tribunal, is not disturbed.

Accordingly, the impugned award is required to be modified and recalculated in the following manner :

Monthly income	Rs. 4,500/-
Yearly income	Rs. 54,000/-
Deduction 50%	Rs. 27,000/-
Add. 40% future prospect (Rs.10,800/-)	Rs. 37,800/-
Multiplier 18	Rs. 6,80,400/-
General damages	<u>Rs. 30,000/-</u>
Total compensation	Rs. 7,10,400/-
Tribunal awarded & Paid by the Insurer	<u>Rs. 4,88,500/-</u>
Total Balance payable	Rs. 2,21,900/-

Mr. Roy acknowledges that the appellant / claimant received the awarded sum of Rs.4,88,500/- along with interest in terms of the direction of the learned Tribunal. Accordingly, the balance enhanced sum of Rs.2,21,900/- would become payable to the appellant/claimant by the respondent Insurance company together with interest assessed @ 6% per annum on and from the date of filing of the claim application within a period of 45 days from the date of receipt of the bank account particulars of the appellant.

Learned Counsel for the appellant will forward the bank account particulars of the appellant within a fortnight from date to the learned Counsel for the Insurance Company.

It is made clear that all the payments shall be made through NEFT/RTGS to the bank account of the appellant/claimant.

With the aforesaid directions the instant appeal is disposed of.

There shall be no further order as to costs.

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

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.)