

07 26.07.2021
Ct. 26
SA/tbsr

(Via Video Conference)

FMAT 67 of 2016
with
I.A. No. CAN 1 OF 2020
(Old No. CAN 420 of 2020)

Susweta Maiti & Ors.
-Vs.-
The National Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee

...For the Appellants/
Claimants.

Mr. Rajesh Singh

...For the Respondent/
Insurance Co.

I.A. No. CAN 1 of 2020
(Old No. CAN 420 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.

CAN 1 of 2020 (Old CAN 420 of 2020) is disposed of.

F.M.A.T 67 OF 2016

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 June 26, 2015 passed by the learned Additional District and Sessions Judge, Motor Accident Claims Tribunal Judge, 2nd Court, Tamluk, Purba Medinipur in Motor Accident Claim Case No. 71 of 2014 (MAC Case No. 199 of 2014).

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 appellants/claimants have raised two points in the instant appeal while challenging the quantum of compensation. It is submitted on behalf of the appellants that the Learned Judge committed error in granting a consolidated amount of Rs. 50,000/- under 'future prospect'. The appellants/claimants also pleaded that they were erroneously given only Rs. 5,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the learned advocate representing the Insurance Company argues that the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgements of ***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**, I find substance in the arguments of the appellants/claimants. The appellants/claimants are justified in praying for 25% addition on account of 'future prospect' on the income of the deceased and they should also get Rs. 70,000/- under collective heads of general damages.

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

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly Income =	Rs.4,400/-
Annual Income	Rs.52,800/-
Less 1/3 rd for personal expenses	
(Rs. 17,600/-)	Rs.35,200/-
Add 25% future prospect(Rs.8,800/-)	Rs.44,000/-
Multiplier '13'	Rs.5,72,000/-
Add 'General Damages'	Rs.70,000/-
TOTAL Principal Compensation	Rs.6,42,000/-
Less – awarded by Tribunal and paid by the insurer	Rs.5,12,600/-

Balance (enhancement)	Rs.1,29,400/-

The appellants/claimants acknowledge the receipt of the awarded amount of Rs. 5,12,600/- along with interest. Accordingly, the balance enhanced sum of Rs. 1,29,400 would become payable to the appellants/claimants by the respondent/Insurance Company, together with interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition within a period of 45 days from the date of

receipt of the bank account particulars of the appellants/claimants. Advocate for the appellants/claimants will forward the bank account details of the appellants/claimants within a fortnight from date to advocate for the respondent/Insurance Company. The payment shall be made in the proportion as decided by the Court below.

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 application, if any, is also disposed of. The department concerned is directed to tag the application, 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.)