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(Via Video Conference)

F.M.A.T 113 of 2019
with
I.A. No. CAN 1 of 2021
(application is not traceable in the file)

Rahila Bibi Mondal & Ors.
Vs.
United India Insurance Co. Ltd. & Anr.

Mr. Muktakesh Das
...For the Appellants/
Claimants

Mrs. Sucharita Paul
...For the Respondent/
Insurance Co.

I.A. No. CAN 1 of 2021

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.

FMAT 113 OF 2019

The above appeal has been filed against the judgment and order dated 16th July, 2018 passed by the Learned Judge, Motor Accident Claims Tribunal & Additional District Judge, Fast Track Court - IV, Krishnagar, Nadia, in M.A.C Case No. 323 of 2014, on a claim under section 166 of the Motor Vehicles Act, 1988.

The claimants submit that victim was earning Rs. 7,000/- per month as a mason. The tribunal erred in accepting the monthly income to be only Rs. 3,000/-. The appellants further point out that the claimants are also entitled to Rs. 70,000/- under collective heads of general damages in view of the law as it stands now, after the judgments delivered by the Hon'ble Supreme Court in the case of *National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*, reported in *(2017) 16 SCC 680.*

Mrs. Paul, the Ld. Advocate appearing on behalf of the insurance company argues that the Ld. Tribunal was correct in accepting the income of the victim to be Rs.3,000/- in absence of any documentary evidence. It is further submitted by the Insurance Company that in view of the judgement passed by Hon'ble Supreme Court on case of *Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr., reported in (2009) 6 SCC 121*, the multiplier in instant case should have been 15 instead of 16, as has been adopted by the Court below.

This Court is inclined to accept the submissions made on behalf of the insurance company. However, it is now accepted in this court for some time that between the years 2011 to 2014, the base income has to be taken at Rs.4,000/- per month. Moreover, such amount of Rs. 4000/- per month does not appear to be exorbitant at all for the year 2014, as an unskilled worker working on all days could have earned Rs. 4000/- per month.

Accordingly, considering the submissions as advanced by the learned advocates for the parties, the award is modified and reassessed. Upon taking the monthly income of the victim to be Rs. 4,000/- and adding 40% on account of future prospects, the total notional monthly income comes to Rs. 5,600/-. After annualising such amount and deducting one fifth on account of personal expenses, it is the figure of Rs. 53,760/- on which the multiplier of 15 will have to be applied. The net pecuniary compensation comes to Rs. 8,06,400/-. After adding a further sum of Rs. 70,000/- on account of loss of consortium, loss of estate and funeral expenses, the gross compensation comes to Rs. 8,76,400/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge receipt of the entire awarded amount along with interest. The balance sum of Rs. 1,77,280/- would be paid to the appellants 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. Advocate for the Appellants will forward the bank account details of the appellants within a fortnight from date to Advocate for the insurance company. The payment shall be made in the proportion decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

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

The department is directed to send down the LCR.

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

(Shekhar B. Saraf, J.)