

S/L 18
24.6.2021
Court No.26
SD

FMAT 109 of 2018
With
CAN 1 of 2021
(Via Video Conference)

Rajesh Rajak & Ors.
Vs.
The New India Assurance Company Ltd. & Anr.

Mr. Amit Ranjan Roy

...for the Appellant/Claimants.

Mr. Rajesh Singh

...for the Respondents/ Insurance Co.

CAN 1 of 2021:

Let copy of this application furnished by counsel on behalf of the appellants be treated as original one.

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.

FMAT 109 of 2018:-

This appeal has been filed against the judgment and award dated April 6, 2017 passed by the learned Judge, Motor Accident Claims Tribunal & Additional District Judge, 1st Court, Asansol in M.A.C. Case No. 41 of 2012/134 of 2011 under Section 166 of the Motor Vehicles Act, 1988.

Two points have been mainly raised by the appellants/claimants in the instant appeal. Mr. Amit Ranjan Roy, counsel appearing on behalf of the appellants/claimants

submits that the claimants were not granted any amount under “Future Prospect”. Lastly, the appellants/claimants were granted only Rs.4,500/- as “General Damages” against their lawful entitlement of Rs.30,000/-. Accordingly Mr. Roy submitted that a lesser quantum of compensation has been awarded by the tribunal.

Mr. Rajesh Singh, counsel is appearing on behalf of the respondents/Insurance Company.

I have heard counsel appearing on behalf of the parties and considered the reported judgments in the case of ***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***.

This Court is also of the view that addition of 50%, as prayed for by the appellants/claimants, on account of ‘Future Prospect’ on the income of the deceased. The ‘General Damages’ in the instant case should be Rs.30,000/- instead of Rs.4,500/- as granted by the Tribunal.

The impugned award is thus modified and the appellants/claimants are found entitled to a total sum of Rs.21,90,000/- together with interest therein @6% per annum from the date of filing of the claim application till its realisation.

Taking the annual income of the deceased to be Rs.1,80,000/- and by adding 50% future prospect, it comes to Rs.2,70,000/-. Upon 50% deduction on account of personal expenses, the amount comes to Rs.1,35,000/- on which multiplier 16 will have to be applied. The net pecuniary compensation comes to Rs.21,60,000/-. The appellants/claimants also entitled to general damages of Rs.30,000/- on account of loss of estate and funeral expenses. The gross compensation comes to Rs.21,90,000/-

together with interest thereon @6% per annum from the date of filing of the claim application till receipt of the same.

The appellants/claimants received the entire awarded amount of Rs.14,44,500/- along with interest. The balance sum of Rs.7,45,500/- would have become payable to the appellants/claimants together with interest @6% per annum on and from date of filing of the claim application.

The counsel appearing on behalf of the appellants/claimants shall forward the bank account details of the appellants/claimants to the Insurance Company within a period of two weeks from date.

The Insurance Company is directed to pay Rs. 7,45,500/- together with interest @6% per annum on and from date of filing of the claim application to the appellants'/claimants' bank accounts directly within a period of four weeks from date, in the same manner and proportion as decided by the tribunal.

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.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)