S/L 11
26.7.2021
Court No.26
AD

FMAT 174 of 2019
With
IA No.:CAN 1 of 2019 (Old No.:CAN 2147 of 2019)

(Via Video Conference)

Chhaya Shasmal @ Chhayarani Sasmal & Ors.
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy
... for the Appellants/Claimants.
Mr. Sanjay Paul
... for the Respondent/Insurance Company.

IA No.:CAN 1 of 2019 (Old No.:CAN 2147 of 2019)

Since the original application is not found in the file, the photostat copy of the application for condonation of delay is taken on record and the same is treated as original.

This is an application for condonation of delay in filing the instant appeal.

On perusal of the pleadings, this Court 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 No. 174 of 2019

On consent of the parties appeal is taken up for hearing.

The appeal is against the judgment and award dated 14th August, 2018 passed by the Learned Judge, Motor Accident Claims Tribunal, Fast Track, 1st Court, Tamluk, in MAC Case

No. 39 of 2017 / MAC Case No.376 of 2012, on a claim under Section 166 of the Motor Vehicles Act, 1988.

The fact of the case is that the legal heirs of victim are claiming compensation on account of death of Gurupada Sasmal, in a motor vehicle accident took place on 5th June, 2012.

Mr. Amit Ranjan Roy, counsel appearing on behalf of the appellants, has mainly raised two points in the instant appeal. It is submitted on behalf of appellants that the monthly income of Rs.3000/- of the victim considered by the learned Judge was inadequate. However, claimants were not granted any amount under heading Future Prospect. Accordingly, Mr. Roy submits that the lesser quantum of compensation has been awarded by the Tribunal.

Mr. Sanjay Pal, counsel appearing on behalf of the Insurance Company, argued that the Learned Tribunal rightly accepted the income of Rs.3,000/- per month in absence of documentary evidence and there is no scope of interference of the appellate court at this stage.

Mr. Roy further submits and informed the Court that appellants 2 & 3 were minor at the time of filing of the claim case and attained their majority before preferring the appeal and filed the appeal in their individual capacity.

Heard the submission of the parties, considering the judgments of *Smt. Sarala Verma & Ors. –Vs.- Delhi Transport Corporation & Anr.,* reported in *(2009) 6 SCC 121* and *National Insurance Company Limited –Vs.- Pranay Sethi & Ors.,* reported in *(2017) 16 SCC 680* and also following the precedence of this Court on the point of monthly income, I find substance in the arguments of the appellants. For the year 2012, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 4000/- per month does not appear to be exorbitant.

Similarly, appellants are justified in praying for 25% addition on account of 'future prospect' on the income of the deceased. The appellants, however, also submit that the total component of General Damages should be Rs. 70,000/- instead of Rs. 30,000/**-** as granted by the Court below.

Considering the submission, I am of the view that the impugned award is required to be modified and the claimants are found to be entitled to total amount of Rs 6,30,000/- together with interest thereon at the rate of 6% per annum from the date of filing of claim application till the date of receipt of payment. In the light of the above observation, appellants are entitled to get such compensation in the following manner:

<u>Particulars</u>	<u>Amount</u>
Monthly Income	Rs. 4000/-
Yearly Income(x12)	Rs. 48,000/-
After Deduction 1/3rd	Rs. 32,000/-
25% future prospect (32,000 x 25%)	Rs.8000/-
Total annual income	Rs. 40,000/-
Age 44 Multiplier14 (40,000 x 14)	Rs.5,60,000/-
General damages	Rs.70,000/-
Total compensation	Rs. 6,30,000/-
Tribunal awarded	Rs.3,66,000/-
Payable	Rs. 2,64,000/-

The claimants are acknowledging receipt of sum of the entire awarded amount of Rs. 3,66,000/- along with interest. The balance sum of Rs.2,64,000/- would become payable to the appellants together with interest assessed at the rate of 6 per centum from the date of filling of claim application till the date of payment within 45 days from the date receipt of the bank particular of the appellants, peremptorily . Learned Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Advocate for the Insurance Company. The payment shall be made by the insurance company to the appellants in the same proportionate as indicated in the tribunal award and to treat the appellants no. 2 & 3 as major.

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 concerned Department is directed to tag the applications, if any, with the main appeal.

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.)