

Ct. No. 26
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F.M.A.T. 200 of 2017
Smt. Manju Chalak & Ors.
Vs.
National Insurance Co. Ltd.
(Via Video Conference)

Mr. Amit Ranjan Roy **...For the Appellants/Claimants**

Mr. Samim Ahammed
Mr. Aniruddha Singh **...For the Respondent/Insurance Co.**

In re.: CAN 4322 of 2017 (Condonation of Delay)

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

On perusal of the pleadings, this Court is satisfied that the cause shown for 45 days delay in filing the appeal is sufficient and the prayer for condonation of delay should be allowed.

Accordingly, the application for condonation of delay stands allowed.

This appeal is directed against the judgment and award dated September 29, 2016 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Paschim Medinipur, in M.A.C. Case No. 210 of 2015, on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 25 years old 'Tapan Chalak' in a road accident dated March 09, 2015. Income of the deceased was Rs.10,590/- per month.

Facts of the case are not in dispute.

The main contention of the appellants in the instant appeal is with regard to the quantum of compensation.

Mr. Amit Ranjan Roy, learned Counsel appearing on behalf of the appellants submits that the learned Tribunal

committed error in law while assessing the ‘future prospect’ at a consolidated amount of Rs.50,000/- only. It was further submitted that the learned Tribunal wrongfully awarded Rs.10,000/- under the collective heads of ‘general damages’. Accordingly, Mr. Roy submits that the learned Tribunal granted inadequate compensation and the award should be enhanced.

Mr. Samim Ahammed, learned Counsel appearing on behalf of the Insurance Company submits that the learned Tribunal rightly assessed the amount of compensation and there is no further scope of interference and/or enhancement by this Court at this stage.

Considering the judgments of the Hon’ble Apex Court in 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 submission of the appellants. The appellants are justified in praying for addition of 40% on account of ‘future prospect’. This Court is also of the view that the appellants/claimants should also get Rs.30,000/- under the collective heads of ‘general damages’. Accordingly, the impugned award is modified and recalculated in the manner as stated hereinafter:

Monthly income	Rs. 10,590/-
Annual Income	Rs. 1,27,080/-
Add 40% future prospect (Rs.50,832/-)	Rs. 1,77,912/-
50% deduction for personal Expenses	Rs. 88,956/-
Use Multiplier (18) (88,956 X 18)	Rs.16,01,208/-
Add: General Damages	Rs. 30,000/-
Total Principal Compensation	Rs.16,31,208/-

Less: Awarded sum already paid	Rs.11,91,012/-
Balance (Enhancement)	Rs. 4,40,196/-

The appellants / claimants received the entire awarded sum of Rs.11,91,012/- along with interest in terms of the direction of the learned Tribunal. Accordingly, the balance enhanced sum of Rs.4,40,196/- would become payable only to the applicant No. 1, mother of the deceased, by the Insurance Company together with interest assessed at the rate of 6% per annum, on and from the date of filing of the claim application. Insurer should make the above payment within 45 days from the date of receipt of the bank particulars of the appellant/claimant No. 1. Learned Counsel for the appellants/claimants shall forward the bank details of the appellant/claimant No. 1, mother of the deceased, within a fortnight from date to the learned Counsel for the Insurance Company.

It is made clear that the payment shall be made by the Insurance Company through NEFT/RTGS to the bank account of the appellant No. 1, mother of the deceased, as per the decision of the learned Tribunal.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, connected application, if any, is also disposed of. The concerned Department is directed to trace out the application and tag the same with this appeal.

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.*)