

S/L 32
16.8.2021
Court No.26
SD

FMAT 154 of 2016
With
CAN 1 of 2016
(Old CAN 2155 of 2016)
(Via Video Conference)

Smt. Niyati Mahato & Ors.
Vs.
National Insurance Co. Ltd. & Anr.

Mr. Krishanu Banik

...for the Appellants/Claimants.

Mr. Saibalendu Bhowmick

Mr. B. Guha

...for the Respondent/Insurance Co.

CAN 1 of 2016 (Old CAN 2155 of 2016):-

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 2016 stands allowed.

FMAT 154 of 2016:-

The instant appeal has been filed by the claimants against the judgment and award dated March 18, 2015 passed by the learned Judge, Motor Accident Claims Tribunal, 4th Court, Paschim Medinipur, in M.A.C. Case No.268 of 2012.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the M. V. Act, 1988. Counsel appearing on behalf of the appellants/claimants submit that the Tribunal committed

error in law while assessing monthly income of the deceased as Rs.3,600/- per month instead and in place of Rs.4,000/- per month.

Mr. Krishanu Banik further submits that the Tribunal also committed error in law by applying the multiplier of 16 instead and in place of multiplier of 18 and further not assessing the future prospect of the deceased as 40% and also not assessing the general damages as Rs.30,000/- while passing the impugned award.

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***, the claimants are entitled to 40% additional income as future prospects of the deceased. This Court is also inclined to accept the submissions made on behalf of the appellants on the above points. The impugned award is thus modified as stated hereinafter.

Particulars	Amount (Rs.)
Monthly income	4,000/-
Annual income	48,000/-
40% additional income towards future prospect	19,200/
Loss of Total annual income	67,200/
Less 1/2 nd deduction	33,600/
Loss of annual dependency	33,600/
Multiplier (18)	6,04,800/
General damages	30,000/
Total	6,34,800/

Mr. Banik acknowledges that his clients have already received a sum of Rs.5,56,100/ together with interest that has

been awarded by the court below and which has been paid by the insurance company, the differential amount which comes to Rs.78,700/ together with 5% interest from date of claim application till payment which shall be paid to the claimants by the insurance company in the same manner as indicated in the award within 45 days from the receipt of the particulars of their bank accounts to be supplied by their counsel to the counsel for the insurance company.

It is made clear that the payments shall be made by NEFT/ RTGS in the proportion as ordered by the Court below.

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 applications, if any, are 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.)