

13.07.2021

SS

F.M.A.T. 238 of 2020

I.A. CAN 1 of 2021

(Via Video Conference)

Mithu Bera & ors.

Vs.

United India Insurance Co. Ltd. & anr.

Mr. Pingal Bhattacharya

Ms. Poonam Keswani

...For the Appellants/claimants

Mr. Rajesh Singh

... For the respondent no.1/Insurance Co.

CAN 1 of 2021

On the prayer of the learned Counsel appearing on behalf of the appellants and since learned Counsel for the respondent/Insurance Company did not oppose, this Court condones the delay in filing the instant appeal. The application for condonation of delay is disposed of.

By consent of the parties, instant appeal is treated as on day's list and is taken up for hearing.

The department is directed to issue F.M.A. number immediately.

FMAT 238 of 2020

The appeal is directed against the judgment and order dated October 10, 2018 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track 1st Court, Purba Medinipur at Tamluk, in M.A.C Case No. 99 of 2016/310 of 2016, on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 'Debashish Bera' in a road accident dated June 6, 2016.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellants that the monthly income of Rs.4,000/- of the victim, considered by the learned Judge was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Lastly, claimants pleaded that full component of compensation under collective heads of 'general damages' were not provided. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

The Insurance Company is represented.

Considering the judgements of **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, reported in **(2009) 6 SCC 121** and **National Insurance Company Ltd. 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 2016, in a claim under Section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. Appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the 33 years old deceased. The 'general damages' should also be for Rs.70,000/- in total. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	Amount (Rs.)
Monthly Income	5,000/-
Annual Income	60,000/-
Add - 40% income for future prospects (Rs.24,000/-)	84,000/-
Less - 1/4 th for personal expenses (Rs.21,000/-)	63,000/-
Multiplier (16)	10,08,000/-
Collective General Damages	70,000/-
Total	<u>10,78,000/-</u>

The claimants acknowledge receipt of the awarded amount of Rs.7,19,227/- along with interest. Accordingly, the balance enhanced sum of Rs.3,58,773/- would become payable to the appellants by the insurance company, 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. 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 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 concerned

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

There will be no order as to costs.

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.)