

S/L 16
26.7.2021
Court No.26
SD

FMAT 241 of 2020
With
CAN 1 of 2021
(Via Video Conference)

Rama Singha & Ors.
Vs.
National Insurance Co. Ltd. & Anr.

Mr. Pingal Bhattacharyya
Ms. Poonam Keswani

...for the Appellants/Claimants.

Mr. Deb Narayan Roy

...for the Respondents/Insurance Co.

CAN 1 of 2021:-

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.

F.M.A.T. 241 of 2020:-

The appeal is directed against the judgment and award dated February 1, 2019 passed by the Judge, Motor Accident Claims Tribunal, Fast Track, 1st Court, Purba Medinipur in M.A.C. Case No.22 of 2016 on a claim under section 166 of the Motor Vehicles Act, 1988 for death of one 'Harekrishna Singha' in a road accident dated January 2, 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.3,500/- of the victim, considered by the learned

Judge was inadequate. Further, the claimants pleaded that full component of compensation under collective heads of 'general damages' was not provided. Accordingly, it was agreed that a lesser quantum of compensation has been wrongly awarded by the Tribunal.

The insurance company is represented.

Considering the judgments 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.4,000/- per month does not appear to be exorbitant. Appellants are justified in praying for 25% addition on account of 'Future Prospect' on the income of the 47 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.

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly income	4,000.00
Add 25% income for future prospect	1,000.00
Total monthly income	5,000.00
Yearly income	60,000.00
After 1/3 rd deduction for personal expenses	40,000.00
Multiplier of 13 to be used	5,20,000.00
Collective heads of General Damages	70,000.00
Total	5,90,000.00

The claimants acknowledge receipt of the entire awarded amount of Rs.3,84,000/- along with interest. Accordingly, the balance enhanced sum of Rs.2,06,000/- would become payable to the claimants by the Insurance Company together with interest assessed @ 6 per cent per

annum, 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 claimants. Advocate for the claimants will forward the bank account details of the claimants within a fortnight from date to the 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.

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.)