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(Via Video Conference)

F.M.A.T 208 OF 2018
with
I.A. No. CAN 1 OF 2018
(Old No. CAN 2102 of 2018)

Susama Das & Ors.
-Vs.-
The National Insurance Co. Ltd. & Anr.

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

Mr. P. K. Pahari
...For the Respondent/
Insurance Company

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 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 stands allowed.

FMAT No. 208 OF 2018

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

The instant appeal has been filed against the judgment and award dated 30th October, 2017 passed by the Judge, Motor Accident claims Tribunal, 1st Court, Tamluk, Purba Medinipur, in MAC Case No. 125 of 2016, 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 Pulak Das, in a motor vehicle accident that took place on 19th February, 2016.

Mr. Amit Ranjan Roy counsel appearing on behalf of the appellants/claimants has raised two points in the instant appeal. It is submitted on behalf of appellants/claimants that monthly income of Rs.3000/- of the victim, considered by the learned Judge, was inadequate. Furthermore, appellants/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. Pahari, counsel for the Insurance Company argued that the 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.

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 in ***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/claimants. For the year 2016, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 5000/- per month does not appear to be exorbitant.

Similarly, appellants/claimants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased. The appellants/claimants also submit that the total component of 'general damages' should be Rs.70,000/- instead of Rs.1,50,000**/-** as granted by the tribunal.

Considering the submission, I am of the view, the impugned award is required to be modified and the claimants are found entitled to a total amount of Rs 1015000/- together with interest thereon at the rate of 6% per annum from the date of lodgment of claim application till the date of receipt of payment. In the light of the above observation, appellants/claimants are entitled to get such compensation in a following manner:

Month income	Rs.5000/-
Yearly income(x12)	Rs.60,000/-
After Deduction 1/4	Rs.45,000/-
In addition 40% future prospect	Rs.18,000 (45000x40%)
Total annual income	Rs.63000/-
Age 39 (Multiplier 15)	Rs.9,45,000 (63000x15)
General damages	Rs.70,000/-
Total compensation	Rs.1,0,15,000/-
Tribunal awarded	Rs.5,55,000/-
Payable	Rs.4,60,000/-

The appellants/claimants are acknowledging the receipt of sum of the entire awarded amount of Rs. 5,55000/- along with interest. The balance sum of Rs.4,60,000/- would become payable to the appellants together with interest assessed @ 6% per annum 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.

Counsel for the appellants will forward the bank account details of the appellants/claimants within a fortnight from date to the counsel for the Insurance Company. The payment shall be made by the insurance company to the appellants/claimants in the same manner and proportion as indicated in award.

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 department concerned 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.)