

05.10.2021

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F.M.A.T. 236 of 2018

I.A. CAN 1 of 2021

(Via Video Conference)

Debarati Tikadar & ors.

Vs.

The New India Assurance Co. Ltd. & anr.

Mr. Muktakesh Das

...For the Appellants/claimants

Mr. P. K. Pahari

... For the respondent no.1/insurance co.

I.A. CAN 1 of 2021

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

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

Accordingly, the application for condonation of delay is disposed of.

F.M.A.T. 236 of 2018

This appeal has been filed by the claimants against an award dated 29th July, 2016 along with order No.48 dated 27th January, 2017 for amendment of the said order dated 29th July, 2016 passed by the learned Judge, Motor Accident Claims Tribunal, 3rd Court, Krishnanagar, Nadia, in M.A.C. Case No.228 of 2010 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 'Binoy Krishna Tikadar' in a road accident dated 25.12.2009.

Learned Advocate for the appellants/claimants submit that the learned Tribunal committed error in law

while not granting 40% additional income towards future prospect since the deceased was 32 years old self-employed business holder. Learned advocate for the appellants/claimants further submit that the learned Tribunal also committed error in law while granting Rs.2,000/- instead of Rs.30,000/- towards general damages.

Learned Advocate for the insurance company submits that the learned Tribunal committed error in law while granting the multiplier of 17 instead of 16.

Be that as it may, considering the rival submissions of the parties as well as observations of the Hon'ble Supreme Court in **Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.**, reported in **(2009) 6 SCC 121** and **National Insurance Co. Ltd. Vs. Pranay Sethi & ors.**, reported in **(2017) 16 SCC 680** as well as general practice of our High Court, the above award passed by the learned Tribunal is modified and recalculated as follows:

<u>Particulars</u>	<u>Amount</u>
Annual income	Rs.1,55,000/-
Add : 40% future prospects	Rs.62,000/-
Total Income	Rs.2,17,000/-
Less : Personal expenses 1/3	Rs.72,333/-
Annual loss of dependency	Rs.1,44,667/-
Multiplier '16' (Rs.1,44,667/- X 16)	Rs.23,14,672/-
Add: General Damages (Rs.,15000/- for funeral expenses Rs.15,000/- for loss of estate)	Rs.30,000/-
Total compensation	<u>Rs.23,44,672/-</u>

The claimants acknowledge receipt of the entire awarded amount of Rs.17,59,000/- along with interest. The balance amount of Rs.5,85,672/- would become payable to the claimants by the insurance company together with interest assessed @ 6% 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. Learned Advocate for the claimants/respondents shall furnish particulars of bank account details of the claimants with a fortnight from date to the learned Advocate for the insurance company. The payment shall be made in the same manner and proportion as per award.

With the aforesaid directions, the instant appeal is disposed of. There shall be no order as to costs.

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

L.C.R., if any, 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.)