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(Via Video Conference)

F.M.A.T 293 of 2020
with
I.A. No.CAN 1 of 2020
(Old No.CAN 2767 of 2020)

Padma Rani Bangal & Ors.
Vs.
The United India Insurance Company Limited & Ors.

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

Mr. Sanjay Paul
....For the Respondent/ Insurance Company

CAN 1 OF 2020
(Old No.CAN 2767 of 2020)

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 2020 stands allowed. The appeal is restored to its original file and number.

The application for condonation of delay is disposed of.

FMAT 293 of 2020

The appeal is directed against the judgment and order dated 3rd September, 2019 by the Learned Additional District Judge, Fast Track Court – II, Tamluk, Judge, Motor Accident Claims Tribunal, Purba Medinipur in M.A.C Case No 74 of 2016.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the M. V. Act, 1988. The Learned Advocate for the appellant/claimant submits that the Learned Tribunal committed error in law while not assessed the monthly income of Rs. 5,000/- instead of Rs.3,000/- where the avocation of the deceased has been proved with cogent evidence but fact remains that since the accident occurred in the year 2016 and as per practice of this Hon'ble Court, the Learned Tribunal ought to have assessed the monthly income of Rs. 5,000/- notionally instead of Rs.3,000/-.

The Learned Tribunal also committed error in law while not granting 25% additional income towards future prospect considering the ratio as decided in ***National Insurance Company Limited –vs.- Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680*** since the deceased was 43 years old self employed person.

In turn the Learned Advocate for the respondent insurance company submits that the award passed by the

Learned Tribunal is absolutely just and there is no scope of any further enhancement of the award.

Be that as it may, considering the rival submissions of the parties as well as judgment of Hon' ble Apex Court as well as general practice of our High Court, above award passed by the Tribunal below is modified and recalculated as follows:

Particulars	Amount (Rs.)
Monthly Income	5,000/
Annual Income (x 12)	60,000/
25% additional income towards future prospect	15,000/
Annual income	75,000/
Less 1/3rd deduction towards personal expenses	25,000/
Loss of annual dependency	50,000/
Multiplier (14)	7,00,000/
General damages -	70,000/
Total	Rs.7,70,000/

Since the entire amount of Rs.4,06,000/ together with interest that has been awarded by the court below has been paid by the insurance company, the differential amount which comes to Rs. 3,64,000/ together with 6% interest from date of claim application till payment which shall be paid to the claimants in the same manner as indicated in the award within 30 days of receipt of particulars of their bank accounts to be supplied by his 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 bearing F.M.A.T. No.293 of 2020 shall stand disposed of.

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.

(Shekhar B. Saraf, J.)