29.07.2021
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(Via Video Conference)

F.M.A.T. 164 of 2015

I.A. CAN 1 of 2016 (old No. CAN 7268 of 2016)

Smt. Gita Middya & ors.
Vs.
The Regional Manager (Claim),
Reliance General Insurance Co. Ltd. & anr.

Mr. Krishanu Banik ...For the Appellants/claimants

Ms. Gopa Das Mukherjee
... For the respondent/Insurance Co.

<u>Re : I.A. CAN 1 of 2016 (old No. CAN 7268 of 2016)</u>

This is an application for condonationn 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.

The application for condonation of delay is, thus, disposed of.

<u>F.M.A.T. 164 of 2015</u>

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

The department is directed to register the instant appeal immediately.

This appeal is directed against the judgement and order dated 22nd day of September, 2014 passed by the learned Judge, Motor Accident Claims Tribunal and Additional District Judge, 1st Court, Bankura in M.A.C. Case No.1 of 2014.

The facts of the case are not in dispute.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. Learned Advocate for the appellants/ claimants submit that the learned Tribunal committed error in law while not assessing the annual income of the deceased at Rs.36,000/-, that is, Rs.3000/- X 12 months.

Mr. Banik, learned Counsel appearing on behalf of the appellants/claimants submits that the learned Tribunal also committed error in law by not applying the multiplier of 17 and also not assessing the general damages as Rs.70,000/- while passing the impugned award.

In view of the law as it stands now after the judgements delivered by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & ors.,** reported in **(2017) 16 SCC 680** the submissions and the points made by Mr. Banik is accepted. Therefore, the impugned award is thus modified as stated hereinafter:

Particulars	Amount (Rs.)
Monthly income	3,000/-
Annual Income (3000/- X 12)	36,000/-
40% Future Prospects	14,400/-
Annual loss of income	50,400/-
Deduction 1/3rd on account Of own living expenses	16,800/-
	33,600/-
Multiplier '17' (33,600X17)	5,71,200/-
General damages	70,000/-
Total	6,41,000/-

Mr. Banik acknowledges that his clients have already received a sum of Rs.4,41,500/- with interest that has been awarded by the learned Court below and has been paid by the Insurance Company, the differential amount which comes to Rs.1,99,500/- together with 6% interest from the date of claim application till payment shall be paid to the claimants by the Insurance Company in the same manner as indicated in the award within 45 days from the receipt of the particulars of their bank accounts to be supplied by their learned Counsel to the learned Counsel for the Insurance Company.

It is made clear that the payments shall be made by NEFT/RTGS 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.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Shekhar B. Saraf, J.)