20.07.2021
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(Via Video Conference)

F.M.A.T. 280 of 2019

I.A. CAN 1 of 2019 (old No.CAN 8956 of 2019)

Shefali Pal & ors.
Vs.
The National Insurance Co. Ltd. & anr.

Mr. Jayanta Banerjee
...For the Appellants/claimants

Mr. Parimal Kumar Pahari
... For the respondent/Insurance Co.

I.A. CAN 1 of 2019 (old No. CAN 8956 of 2019)

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

On perusal of the pleadings, this Court is satisfied that the cause shown for delay in filing the instant 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.

FMAT 280 of 2019

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.

The appeal is directed against the judgment and award dated 28th day of September, 2018 passed by learned Judge, Motor Accident Claims Tribunal, 3rd Fast Track Court, Krishnagar, Nadia in M.A.C Case No. 237 of 2015 (R. No. 136 of 2015).

The facts of the case are not in dispute.

The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988. The only issue is with regard to the monthly income of the deceased that was taken as Rs.3,000/- per month. While it is true that there is no clear evidence of the claim made before the Tribunal of Rs.5,000/- per month as to be the income of the victim, this Court as per the practice followed has considered the income of the deceased is Rs.5,000/- per month.

Learned Advocates for the appellants and also the Insurance Company submitted that the claimants are entitled to get compensation in view of the law as laid down in **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.**

Considering the above submissions, the award passed by the learned Tribunal is modified and recalculated as follows :

Particulars	Amount (Rs.)
Monthly Income	Rs.5,000/-
Add: 40% future prospects	Rs.2,000/-
	Rs.7,000/-
Annual Income (Rs.7000x 12)	Rs.84,000/-
Less : 1/3rd for personal expenses	Rs.28,000/-
	Rs.56,000/-
Multiplier '18' (Rs.56,000X18)	Rs.10,08,000/-
Add 'General Damages'	Rs.70,000/-
	Rs.10,78,000/-
LESS – awarded amount already Paid	Rs.6,74,800/-
Enhanced principal amount	Rs.4,03,200/-

Since the entire amount that has been awarded by the learned Tribunal has been paid by the Insurance Company, the differential amount which comes to Rs.4,03,200/- shall be paid to the appellants along with interest @ 6% per annum from the date of filing of the claim petition till the date of actual payment within a period of 45 days from the date of receipt of the bank account particulars of the appellants. Learned Advocate for the appellants will forward the bank account details of the said appellants within a fortnight from date to the learned Advocate for the Insurance Company.

It is made clear that the payments shall be made by NEFT/RTGS in the proportion as ordered by the Tribunal.

With the aforesaid directions, the instant appeal is disposed of.

There will be no order as to costs.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

LCR, if any, may 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.)