

24.09.2021

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**F.M.A.T. 269 of 2017
I.A. CAN 1 of 2021
(Via Video Conference)**

**Madhumala Barui & ors.
Vs.
The Oriental Insurance Co. Ltd. & ors.**

**Mr. Muktakesh Das
...For the Appellants/claimants**

**Ms. Sucharita Paul
... For the respondent No.1/Insurance Co.**

CAN 1 OF 2021

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 2021 stands allowed.

The concerned Department is directed to tag the application with the main appeal.

F.M.A.T No. 269 of 2017

The above appeal has been filed by the claimants against the judgement and order dated 17th June, 2016, passed by the Learned Judge, Motor Accident Claim Tribunal, Additional District Judge, 5th Court, Nadia, in M.A.C. Case

No.60 of 2004, in a claim under Section 166 of the Motor Vehicles Act, 1988.

The appellants submit that the claimants are entitled to 25% future prospects on the income of the deceased, which was not granted by the learned Tribunal. It is further submitted that the claimants are also entitled to a total amount of Rs.70,000/- on account of non-pecuniary expenses. The appellants rely on the dictum of Hon'ble Supreme Court in the case of *National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680, in support of their argument.

The Insurance Company is represented.

After considering the submissions as advanced by the learned advocates for the parties, the impugned award is modified and reassessed as follows:

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly income	3,000.00
Add 25% future prospect	<u>(+) 750.00</u>
	3,750.00
Annual Income X12	45,000.00
Less: 1/3 rd personal expenses	(-) <u>15,000.00</u>
	30,000.00
Multiplier of 15 to be used (x) 15	4,50,000.00
Collective heads of General Damages	<u>(+) 70,000.00</u>
	5,20,000.00
Less: Awarded amount	(-) <u>2,50,000.00</u>
Differential amount	<u>2,70,000.00</u>

The claimants acknowledge receipt of the entire awarded amount of Rs.2,50,000/- along with interest. The balance sum of Rs.2,70,000/- would be paid to the appellants by the insurance company together with interest assessed at the rate of 6 per cent per annum on and 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 appellants. For such purpose, learned advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to learned advocate for the insurance company. The payment shall be made in the proportion decided by the Court below.

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 concerned Department 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.)