

Ct. No. 26
24.6
2021
5
akb

F.M.A.T. 510 of 2011

(Via Video Conference)

Khalida Bibi & Ors.

Vs.

The Oriental Insurance Co. Ltd. & Anr.

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

Ms. Sucharita Paul ...For the Respondent/Insurance Co.

By consent of the parties, copy of this application, being IA No. 1 of 2013 (Old No. CAN 4266 of 2013), is taken up for hearing by treating copy of the same as original one.

In view of the reasons shown in the application being IA No. 1 of 2013 (Old No. CAN 4266 of 2013), the delay in preferring the appeal is condoned and the appeal is regularized.

No serious objection has been raised by Ms. Sucharita Paul, learned Counsel appearing on behalf of the Insurance Company.

The application for condonation of delay is disposed of.

The above appeal has been filed by the claimants, against the judgment and award dated April 21 2010, passed by the learned Member, Motor Accident Claims Tribunal, District Judge, Nadia, in M.A.C. Case No. 148 of 2009.

The 33 years old victim was working as a mason. It is submitted on behalf of the appellants that the income of the victim should have been taken to be Rs. 3,000/- per month instead of Rs. 2,100/-.

The insurance company is represented.

For the year 2010, in a claim under Section 163A of

the Motor vehicles Act, 1988, an amount of Rs. 3,000/- per month does not appear to be exorbitant. Further, it is now accepted in this Court for some time that up to 2010, the base income has to be take as Rs.3,000/- per month.

Accordingly, the impugned award is modified and the claimants are found entitled to a total sum of Rs.4,17,500/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the receipt of payment as indicated more fully hereafter.

Taking the monthly income of the victim to be Rs. 3,000/- and after annualising such amount and deducting 1/3rd on account of personal expenses, it is the figure of Rs.24,000/- on which the multiplier of 17 will have to be applied. The net pecuniary compensation comes to Rs.4,08,000/-. The appellants are also entitled to general damages of Rs.9,500/- on account of loss of estate, loss of consortium and funeral expenses, taking the gross compensation to Rs.4,17,500/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The claimants acknowledge receipt of a sum of the entire awarded amount along with interest. The balance sum of Rs.1,22,400/- would become payable to the appellants 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. Advocate for the appellants will forward the bank account details of the appellants within a fortnight from date to the Advocate for the insurance company. The payment shall be made in the

same manner and proportion as decided by the Court below.

With the aforesaid directions the instant appeal is disposed of.

There will be no order as to costs.

Urgent photostat copy of the order, if applied for, be supplied to the petitioner on priority basis on compliance of necessary formalities.

(*Shekhar B. Saraf, J.*)