

S/L 14
08.9.2021
Court No.26
SD

**FMAT 407 of 2021
(Via Video Conference)**

Smt. Asima Dolai & Ors.
Vs.
Oriental Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee

...for the Appellants/Claimants.

Mr. Sucharita Paul

...for the Respondent/Insurance Co.

CAN 1 of 2021:-

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

In view of Stamp Reporter's Report, there is no delay in filing of the appeal. Accordingly, CAN 1 of 2021 is not pressed and is disposed of.

F.M.A.T No. 407 of 2021:-

The above appeal has been filed by the claimants against the judgement and award dated 17th March, 2021, passed by the learned Judge, Additional District & Sessions Judge, RD Court, Paschim Medinipore, in M.A.C. Case No.430 of 2016/CIS - 481 of 2016, on 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. However, the Tribunal erroneously awarded a lumpsum amount of Rs.60,000/- on such head. It is further submitted that the claimants are also entitled to statutory interest in accordance with section 171 of the Motor Vehicles Act, 1988, which was not awarded by the learned Court below. 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.

Mrs. Paul, counsel appearing on behalf of the Insurance Company submits that the total amount on account of non-pecuniary expenses should have been restricted to Rs. 70,000/-, in view of the judgement of ***Pranay Sethi (supra)***.

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	10,000.00
Add 25% future prospect	<u>(+) 2,500.00</u>
	12,500.00
	<u> x 12</u>
	1,50,000.00
Less: 1/4 th personal expenses	<u>(-) 37,500.00</u>
	1,12,500.00
Multiplier 15 (1,12,500/- x 15)	16,87,500.00
Add General damages	<u>(+) 70,000.00</u>
	17,57,500.00
less: awarded amount	<u>(-) 15,20,000.00</u>
Differential amount	<u>2,37,500.00</u>

The claimants acknowledge receipt of the entire awarded amount of Rs.15,20,000/- minus interest. The balance sum of Rs.2,37,500/- 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. Insurance Company is also directed to pay 6% interest on the principal awarded amount of Rs.15,20,000/-, if not already disbursed, to be calculated from the date of lodging of the claim case till the date of payment. For such purpose, advocate for the appellants will forward the bank

account details of the appellants within a fortnight from date to 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.

There shall be no order as to costs.

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

The Registry is directed to send down the lower court records at once, if received by this time.

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.)