**S/L 8**
13.9.2021
Court No.26
*SD*

FMAT 406 of 2021
With
CAN 1 of 2021
(Application is not in the file)
***(Via Video Conference)***

Sri Kalipada Saren & Anr.
Vs.
Oriental Insurance Co. Ltd. & Ors.

*Mr. Jayanta Banerjee*
*... for the Appellants/Claimants.*
*Mr. Rajesh Singh*
*... 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.

***FMAT 406 of 2021:-***

This appeal is directed against the judgment and award dated January 7, 2021 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District & Sessions Judge, Fast Track 3rd Court, Sadar, Paschim Medinipur in M.A.C. Case No.197 of 2018 (CIS Registration No.216 of 2018) under Section 166 of the Motor Vehicles Act, 1988 praying for compensation for the death of one 26 years old bachelor 'Maheswar Saren', who died in a road accident dated February 2, 2018.

Counsel appearing on behalf of the appellants has challenged the quantum of compensation on the ground that the court below has not considered future prospect of the deceased. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, counsel for the insurance company argues that in the facts and circumstances of the case, the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgments passed in ***Smt. Sarala Verma & Ors. vs. Delhi Transport Corporation & Anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Limited vs. Pranay Sethi & Ors.*** reported in ***(2017) 16 SCC 680***, I find substance in the submissions of the appellants. Appellants are justified in praying for 40% addition on account of 'future prospect' on the income of the deceased.

Accordingly, the impugned award is required to be modified and recalculated is the following manner:-

| Particulars | Amount (Rs.) |
|---|---|
| Monthly Income | 5,500.00 |
| Annual Income | 66,000.00 |
| Less 50% for personal expenses (Rs.33,000/-) | 33,000.00 |
| Add Future prospect 40% (Rs.13,200/-) | 46,200.00 |
| Multiplier 17 | 7,85,400.00 |
| Add General damages | 30,000.00 |
| Total principal compensation | 8,15,400.00 |
| Less – awarded by Tribunal | 5,91,000.00 |
| Balance (enhancement) | 2,24,400.00 |

The appellants/claimants acknowledge the awarded amount of Rs.5,91,000/- along with interest. Accordingly, the balance enhanced sum of Rs.2,24,400/- would become payable to the appellants/claimants 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 application within a period of 45 days from the date of receipt of the bank account particulars of the appellants.

The respondent/insurance company is hereby directed to pay the sum of Rs.2,90,400/- along with 6% interest per annum on and from the date of filing of the claim application till payment within a period of 45 days from the date of receipt of the bank particular of the appellants/claimants.

Counsel for the appellants will forward the bank account details of the appellants within a fortnight from date to the counsel for the insurance company. The payment shall be made directly in the bank accounts of the claimants through NEFT/RTGS 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.)**