

S/L 8
23.8.2021
Court No.26
SD

FMAT 465 of 2017
With
CAN 1 of 2020
(Application is not in the file)
With
CAN 2 of 2020
(Application is not in the file)
(Via Video Conference)

Smt. Reba Das & Anr.
Vs.
The Oriental Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee
...for the Appellants/Claimants.
Ms. Sayanti Santra
...for the Respondent/Insurance Co.

CAN 1 of 2020:-

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 2020 stands allowed.

FMAT 465 of 2017:-

The appeal is directed against the judgment and award dated June 17, 2015 passed by the learned Judge, Motor Accident Claims Tribunal, 3rd Court (Special), Jalpaiguri in M.A.C. Case No.187 of 2012 on a claim under Section 166 of the Motor Vehicles Act, 1988.

The facts of the case are not in dispute.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. The claimants were not granted any amount under 'future prospect'. Claimants also submit that they were erroneously given only Rs.9,500/- instead of Rs.70,000/- under the full component of 'general damages'. Lastly, claimants submit that the Tribunal erred in not granting mandatory interest on the awarded compensation amount and only granted interest in default clause if the insurance company failed to pay the award in the stipulated time as mentioned in the award. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, counsel appearing on behalf of the Insurance company argues that the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgments of **Smt. Sarla 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 arguments of the appellants. Appellants are justified in praying for 15% addition on account of 'future prospect' on the income of the deceased and they should also get Rs.70,000/- under collective heads of general damages. The claimants are also entitled to get mandatory interest on the awarded sum.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter:-

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly income	17,000.00
Add: 15% future prospect	<u>(+)2,550.00</u>
	19,550.00
Annual income	2,34,600.00
Less: 1/3 rd for personal expenses	<u>(-)78,200.00</u>
	1,56,400.00
Multiplier of 11 to be used	<u>(x) 11</u>
	17,20,400.00

Add: General damages	(+) 70,000.00
	17,90,400.00
Less: Awarded amount	(-) 15,05,500.00
Enhanced principal amount	<u>2,84,900.00</u>

The claimants acknowledge receipt of the awarded amount of Rs.15,05,500/- in terms of the direction of the Tribunal. Accordingly, the balance enhanced sum of Rs.2,84,900/- would become payable to the appellants by the Insurance company together with interest assessed at the rate of 6% per annum on and from the date of filing of the claim petition till payment within 45 days from the date of receipt of the bank account particulars of the appellants. If it is found that the claimants did not receive any interest on the already awarded and paid amount of Rs.15,05,500/-, insurer shall pay interest on the said amount at the same rate of 6% as directed above from the date of filing of the claim application till the date of payment.

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 proportion as decided by the Tribunal.

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.)