S/L 21
25.6.2021
Court No.26
SD

FMAT 662 of 2019
With
CAN 1 of 2019
(Old CAN 7716 of 2019)
(Via Video Conference)

Jalema Sekh & Anr.
Vs.
The United India Insurance Co. Ltd. & Anr.

Mr. Saidur Rahman
... for the Appellants/Claimants.
Ms. Sucharita Paul
... for the Respondents/Insurance Co.

CAN 7716 of 2019:

Let copy of this application furnished by counsel on behalf of the appellants be treated as original one.

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 7716 of 2019 stands allowed.

FMAT 662 of 2019:-

This appeal has been filed by the appellants/claimants against the judgment and award dated February 2, 2019 passed by the learned Judge, Motor Accident Claims Tribunal, 3rd Court, Nadia at Krishnagar in M.A.C. Case No. 257 of 2014 under Section 166 of the Motor Vehicles Act, 1988.

The appellants/claimants submit that the Tribunal erred on a number of grounds while assessing the quantum of compensation. The appellants submits that the victim was earning Rs.7,000/- per month as a centering and binding worker. However, Tribunal assessed the compensation on the basis of monthly income of Rs.3,000/-.

It is further submitted that the appellants/claimants are entitled to 40% future prospects on the income of the deceased. The other grounds urged by the appellants/claimants are that the multiplier should have been 18 instead of 17 and a total sum of Rs.30,000/- should have been awarded on the collective heads of general damages in view of the law as it stands now after the judgments delivered by the Hon'ble Supreme Court in the cases of ***Smt. Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.*** reported in ***(2017) 16 SCC 680.***

Mrs. Sucharita Paul, counsel appearing on behalf of the respondents/Insurance Company submits that the Tribunal was correct in accepting the income of the victim to be Rs.3,000/- in absence of any documentary evidence.

This Court is inclined to accept the submissions made on behalf of the Insurance Company. However, it is now accepted in this Court for some time that between the years 2011 to 2014, the base income has to be taken as Rs.4,000/- per month. Further, the amount of Rs.4,000/- per month does not appear to be exorbitant at all for the year 2013, as an unskilled worker working on all days could have earned Rs.4,000/- per month.

Accordingly, on such basis and considering the submissions as advanced by the counsel for the parties, in my opinion, the monthly income of the victim should be taken as Rs.4,000/-.

The impugned award is thus modified and recalculated and the claimants are found entitled to a total amount of Rs.6,34,800/- together with interest thereon @6% per annum from the date of lodging the claim till the receipt of payment as indicated more fully hereafter.

The monthly income of the victim is taken to be Rs.4000/- per month. Upon adding 40% as future prospect, such amount comes to Rs.5,600/- per month. After annualizing the same and deducting ½ as personal expenses, the amount is of Rs.33,600/- on which a multiplier of 18 would be applied. The net pecuniary compensation comes to Rs.6,04,800/-. The appellants/claimants are also entitled to Rs.30,000/- on account of loss of estate and funeral expenses, taken the gross compensation of Rs.6,34,800/- together with interest thereon @6% per annum from the date of filing of the claim application till receipt of the same.

The appellants/claimants received the entire awarded sum along with interest. The balance sum of Rs.3,24,300/- would have become payable to the appellants/claimants together with interest @6% per annum on and from date of filing of the claim application.

The counsel appearing on behalf of the appellants/claimants shall forward the bank account details of the appellants/claimants to the Insurance Company within a period of two weeks from date.

The Insurance Company is directed to pay Rs.3,24,300/- together with interest @6% per annum on and from date of filing of the claim application to the appellants'/claimants' bank accounts directly within a period of four weeks from date, in the same manner and 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 application, if any, is 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.)