Ct. No. 26

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# F.M.A.T. 533 of 2013

**Minku Majumder & Ors.**
**Vs.**
**United India Insurance Co. Ltd. & Anr.**
**( Via Video Conference )**

**Mr. Jayanta Banerjee** ...For the Appellants/Claimants

**Mr. Rajesh Singh** ...For the Respondent/Insurance Co.

***Re.: IA No. 3 of 2020 (Old No. C.A.N. 941 of 2020).***

Since the original application is not found in the file, photostat copy of the application for condonation of delay is taken on record by treating the same 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 the causes 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 stands allowed.

***Re.: IA No. 2 of 2020 (Old No. C.A.N. 940 of 2020).***

Since the original application is not found in the file, photostat copy of the application for recording death of the appellant/claimant No. 4 is taken on record by treating the same as original one.

The claimants/appellants filed the above application to disclose the fact that during the pendency of the appeal, the appellant No. 4 (Anjali Majumdar) died intestate on 02.08.2014. However, as all the legal heirs of the deceased Anjali Majumdar are already on record as appellant nos. 1 and 2, her name should be deleted from the

Memorandum of Appeal.

Accordingly, the application, being CAN 940 of 2020 is allowed. Department is directed to take appropriate steps by deleting the name of the Appellant No. 4 from the cause title.

***Re.: F.M.A.T. 533 of 2013***

This appeal is directed against the judgement and award dated December 18, 2012 passed by the learned Judge, Motor Accident Claims Tribunal and Additional District Judge, 2nd Court, Nadia in M.A.C. Case No.538 of 2009.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. It is submitted that while assessing the compensation, the learned Tribunal has not considered the 'future prospect' of the deceased. Further, towards 'general damages', the full component of Rs.70,000/- was not granted. Lastly, claimants plead that the learned Tribunal erred in not granting 'interest' on the compensation amount from the date of filing of claim application. Accordingly, it is argued that a lesser quantum of compensation has been wrongfully awarded by the learned Tribunal. The claimants however admit that in view of 35 years of age of the victim, the multiplier of '16' should be adopted instead of '17'.

Per contra, the learned Counsel representing 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 judgements 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**, I find substance in the arguments of the claimants. Appellants are justified in praying for 40% addition on account of 'future prospect'. Claimants should also get Rs.70,000/- under collective heads of general damages. It is now well settled that in terms of section 171 of the Motor Vehicles Act, 1988, 'interest' on compensation is to be given from the date of filing of claim application.

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

| | |
|---|---|
| **Monthly Income** | **Rs. 3,000/-** |
| **Annual Income** | **Rs. 36,000/-** |
| **Less 1/3rd for personal expenses (Rs.12,000/-)** | **Rs. 24,000/-** |
| **Add 40% future prospect (Rs.9,600/-)** | **Rs. 33,600/-** |
| **Multiplier '16'** | **Rs.5,37,600/-** |
| **Add 'General Damages'** | **Rs. 70,000/-** |
| **TOTAL Principal Compensation** | **Rs.6,07,600/-** |
| **LESS – awarded by Tribunal and paid by insurer** | **Rs.4,30,000/-** |
| **BALANCE (enhancement)** | **Rs.1,77,600/-** |

The claimants acknowledge receipt of the awarded amount of Rs.4,30,000/- with interest in terms of direction of the Tribunal. Accordingly, the balance enhanced sum of Rs.1,77,600/- 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. If it is found that the claimants did not receive interest for any period on the already awarded and paid amount of Rs.4,30,000/-, the same is also to be paid at the identical rate of 6% p.a., to be calculated on and from the date of filing of claim application till the date of payment. Insurer should make the above payment within a period of 45 days from the date of receipt of the bank account particulars of the appellants.

Learned Counsel for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Counsel for the Insurance Company.

The payment shall be made directly in the bank accounts of the claimants through NEFT/RTGS, in the same manner and proportion decided by the Court below. The share of erstwhile appellant no.4 (Anjali Majumdar, since deceased) should be equally distributed amongst the other 2 claimants, appearing in the cause title as appellant nos. 1 and 2.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, connected application, if any, is also disposed of. The concerned Department is directed to trace out the application and tag the same with this appeal.

There shall be no further order as to costs.

LCR, if any, may be returned back to the Court below.

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.)***