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(Via Video Conference)

F.M.A 946 of 2019
with
I.A. No.CAN 2 of 2019
(Old No.CAN 7322 of 2019)
(application for condonation of delay)
with
I.A. No.CAN 1 of 2019
(Old No.CAN 7321 of 2019)
with
I.A. No.CAN 3 of 2019
(Old No.CAN 7323 of 2019)

Narayan Pramanik & Anr.
Vs.
The United India Insurance Company Limited & Anr.

Mr. Amit Ranjan Roy
...For the Appellants/ Claimants

Ms. Sucharita Paul
....For the Respondent/ Insurance Company

CAN 2 OF 2019
(Old No.CAN 7322 of 2019)

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 2 of 2019 stands allowed. The appeal is restored to its original file and number.

The application for condonation of delay is disposed of.

CAN 3 of 2019
(Old No.CAN 7323 of 2019)

This is an application for recording attainment of majority of the appellant/claimant no.2 who has become a major.

On perusal of the pleading and the documents annexed, this Court is satisfied and allows such prayer.

Accordingly, the application for attainment of majority being CAN 3 of 2019 (CAN 7323 of 2019) is disposed of. The department is directed to take steps.

FMAT 946 of 2019

The instant appeal has been filed by the appellants/claimants against the judgment and award dated February 12, 2019 passed by the Additional District Judge, Fast Track Court-II, Motor Accident Claims Tribunal, Tamluk, Purba Medinipur.

The appellants/claimants submit that the 38 years old deceased was earning Rs.5000/- per month as a vegetable seller. However, the tribunal erroneously took the monthly income to be Rs.3000/-. The appellants/ claimants further submit that the they are entitled to 40% future prospect on the income of the deceased in view of the law laid down in ***Smt. Sarala Verma & Ors. –vs.- Delhi Transport Corporation & Anr.***, reported in

(2009) 6 SCC 121 and in ***National Insurance Company Limited –vs.- Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680***.

Ms. Sucharita Paul counsel appearing on behalf of the Insurance Company submits that the tribunal was correct in accepting the income of the deceased to be Rs.3000/- in absence of appropriate 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 basic income has to be taken as Rs.4000/- per month. Further, the amount of Rs.4000/- per month does not appear to be exorbitant at all for the year 2013, as an unskilled worker working on all days could have earn Rs.4000/- per month. Accordingly, on such basis and considering the submissions advanced by the counsel for the parties, the monthly income of the deceased should be taken as Rs.4000/-.

The impugned award is thus modified and the appellants/claimants are found entitled to a total amount of Rs.7,42,000/- together with interest thereon at the rate of 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 1/3rd as personal expenses, it is the figure of Rs.44,800/- on which a multiplier of 15 would be applied. The net pecuniary compensation comes to Rs.6,72,000/-. The appellants/claimants are also entitled to Rs.70,000/- on account of loss of estate and funeral expenses, taking the gross compensation to Rs.7,42,000/- together with interest thereon at the rate of 6% per annum from the date of lodging the claim till the date of receipt of the amount.

The appellants/claimants acknowledge receipt of the entire awarded amount along with interest. The balance sum of Rs.3,12,000/- would be paid equally to the appellants/claimants together with interest assessed at the rate of 6% 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/claimants. Counsel appearing on behalf of the appellants/claimants will forward the bank account details of the appellants/claimants within a fortnight from date to the counsel for the Insurance Company.

The Insurance Company shall upon payment of the balance amount, be entitled to recover the entire sum paid to the appellants/claimants from the owner of the offending vehicle for the reasons already recorded by the Court below.

With the aforesaid directions the instant appeal is disposed of. Accordingly, all connected applications are disposed of. The department is directed to tag the applications with the appeal.

In view of the above order, execution case in the court below, if any, remains stayed.

There will be no order as to costs.

Photostat certified copy of this order, if applied for, be furnished upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)