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(Via Video Conference)

F.M.A.T 809 OF 2018
with
I.A. No. CAN 1 OF 2018
(Old No.CAN 6622 OF 2018)

Smt. Hira Bouri & Ors.
Vs.
The New India Assurance Company Ltd.
Raniganj Branch & Anr.

Mr. Amit Ranjan Roy

...For the Appellants/
Claimants

Mr. Sanjay Paul

...For the Respondent/
Assurance Co.

I.A. No. CAN 1 of 2018
(Old No.CAN 6622 of 2018)

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 stands allowed. Register the appeal if it is in form.

F.M.A.T 809 OF 2018

This instant appeal has been filed by the appellants/claimants against the Judgment and award dated March 29, 2018, passed by the learned Additional

District and Sessions Judge and Judge, Motor Accident Claims Tribunal, 4th Court, Asansol in M.A.C. Case No.10 of 2016/144 of 2014, on a claim under Section 166 of the Motor Vehicles Act, 1988.

Two points have been mainly raised by the appellants/claimants in the appeal. Mr. Amit Ranjan Roy, counsel appearing on behalf of the appellants/claimants submits that the income of the deceased has not been properly considered in spite of evidence and secondly the claimants were not granted any amount under the heading of future prospect. Accordingly Mr. Roy submitted that lesser quantum of compensation has been awarded by the tribunal.

Mr. Sanjay Paul, counsel is appearing on behalf of the respondent/Assurance Co. vehemently opposed the submission of appellants/claimants and argued that the tribunal is justified in awarding the compensation amount and there is no scope of the appellate court for interference.

Mr. Roy counsel appearing for the appellants/claimants submits that the deceased was a permanent employee of Purulia Municipality and the salary statement has been produced and the same has been exhibited (Exbt. – 14) in presence of P.W.- 3, one officer of the said municipality and also submits that it appears from the record that the deceased was 31 years at the time of accident and was earning Rs.9649/- per

month after deduction of tax components. The second point was that the appellants/claimants are entitled to get 50% future prospect on the on the income of the deceased in view of the law as laid down 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.

It appears from the salary statement (Exbt. – 14) of the deceased that the net salary is Rs.8649/- after deducting the tax components and the GPF. Mr. Roy submits that the amount of Rs.1000/- under the heading GPF should be taken into account as income of the deceased.

I have heard counsel appearing for the parties and find some substance in the submission made on behalf of the appellants/claimants that monthly income of the deceased should be taken Rs.9649/- and also that addition of 50%, as prayed for by the appellants/claimants on account of future prospect on the income of the deceased should be allowed. Accordingly, the award is modified and reassessed as follows :

Monthly income	Rs.9649/-
Annual Income (Rs9649x12)	Rs. 1,15,788/-
After deduction of 1/3 rd (Rs115788/3)	Rs.77,192/-
Add Future Prospect of 50%	
(Rs.77,192+38,596)	Rs 1,15,788/-

Age 31, multiplier would be 16	Rs.18,52,608/-
General damages	Rs.70,000/-
Total compensation would be	Rs.19,22,608/-
Tribunal awarded	Rs.11,91,362/-
Payable	Rs.7,31,246/-

The appellants/claimants acknowledge receipt of a sum of the entire awarded amount of Rs.11,91,362/- along with interest. The balance sum of Rs.7,31,246/- would become payable to the appellants/claimants together with interest assessed @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.

The appellants/claimants will forward their bank accounts' details through their counsel to the counsel for the Assurance company within a fortnight from date. The payment shall be made by the Assurance Company in the same manner and proportion as decided by the court below.

With the aforesaid directions the instant appeal is disposed of.

In view of the disposal of this appeal, connected applications, if any, are also disposed of. The concerned department is directed to tag the applications, if any, with the main appeal.

There will be no order as to costs.

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.)