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(Via Video Conference)

F.M.A.T 330 of 2014

National Insurance Co. Ltd.
Vs.
Suhana Begum & Ors.

with

F.M.A.T 553 of 2014

Suhana Begum & Ors.
Vs.
Firoj Sekh & Ors.

with

**I.A. No.CAN 1 OF 2014
(Old No.CAN 5930 OF 2014)**

Mr. Arabinda Kundu

...For the Appellant/
Insurance Company.

Mr. Muktakesh Das

...For the Claimants

Since the issues involved in these appeals are related, these appeals are heard together.

Re: I.A. No. CAN 1 of 2014
(CAN 5930 of 2014)

This is an application for condonation of delay filed by the claimants/appellants.

On perusal of the pleadings, this Court is satisfied that the cause shown for delay in filing the appeal is sufficient and prayer for condonation of delay is allowed.

Accordingly, the application being I.A. No. CAN 1 of 2014 (CAN 5930 of 2014) is disposed of.

The appeals have been filed by insurance company and the claimants respectively against the award and/or judgment dated July 11, 2013 passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Nadia, at Krishnagar in M.A.C. Case No. 545 of 2008 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the accidental death of one Sujauddin Sk. On June 4, 2009.

Learned advocate for the Insurance Company submits that this accident happened due to head on collision of the truck and the motor bike and, therefore, only the Insurance Company of truck was not responsible for this accident. He further submits that there was no proof that the rider of the motorcycle was wearing a helmet at the time of riding and also driving licence of the said motorcyclist was not produced before the tribunal. It is also submitted that the ext. – 5 being the last pay certificate of the deceased victim issued by the Border Security Force (BSF) was not properly proved at all. Therefore, the award passed by the tribunal should be modified.

Learned advocate for the appellants/claimants submits that the tribunal committed an error in law while not granting 50% additional income towards 'future prospect' since the deceased was 33 years old and a permanent employee under Central Government Service (B.S.F.). Learned advocate for the appellants/claimants also submits that the tribunal also committed an error in

law while granting Rs.20,000/- instead of Rs.70,000/- towards 'general damages'.

Be that as it may, considering the submissions of the parties as well as observation of the Hon'ble Supreme Court in **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**, as well as general practice of this Court the above award of the tribunal is modified and recalculated as follows :

Particulars	Amount (Rs.)
Monthly Income	Rs.14,400/-
Annual Income	Rs.1,72,800/-
Add 50% future prospect	Rs.86,400/-
Total income	Rs.2,59,200/-
Less 1/3 rd Personal Expenses	Rs.86,400/-
Annual loss of dependency	Rs.1,72,800/-
Multiplier 16	Rs.27,64,800/-
Add general damages	Rs.70,000/-

Total compensation	Rs.28,34,800/-

The claimants submit that they have not received the awarded amount and they would also be entitled to interest on the total compensation amount assessed @6% per annum on and from the date of filing of the claim petition till the date of payment.

The total compensation together with interest as stated above is to be paid by the National Insurance Company to the claimants within a period of 45 days of receipt of particulars of their bank accounts to be supplied by their learned advocate to the learned

advocate for the National Insurance Company.

It is made clear that payments shall be made by NEFT/RTGS in the proportion as ordered by the tribunal.

Accordingly, both the appeal and the connected applications, if any, stand disposed of. Department concerned is directed to tag the applications with these appeals.

There will be no order as to costs.

Photocopy of this order, duly counter signed by the Assistant Court Officer, shall be retained with the records of **FMAT 553 of 2014**.

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.)