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Ct. 26
SA/tbsr

(Via Video Conference)

FMAT 748 of 2017
with
I.A. No. CAN 1 OF 2017
(Old No. CAN 7592 of 2017)

Mira Nandi & Anr.
-Vs.-
The National Insurance Co. Ltd. & Anr.

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

Mr. M.P. Chakraborty
...For the Respondent/ Insurance Co.

I.A. No. CAN 1 of 2017
(Old No. CAN 7592 of 2017)

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.

CAN 1 of 2017 (Old CAN 7592 of 2017) is disposed of.

<u>F.M.A.T 748 of 2017</u>

By consent of the parties, the instant appeal is treated as on day's list and is taken up for hearing.

The appeal is directed against the judgment and award dated August 22, 2016 passed by the learned

Additional District Judge, Motor Accident Claims Tribunal 3rd Court, Nadia, Krishnagar in Motor Accident Claim Case No. 146 of 2014.

The claim application has been filed under Section 166 of the Motor Vehicles Act, 1988.

The appellants/claimants have raised two points in the instant appeal. Counsel appearing on behalf of the appellants/claimants submitted that appellants/claimants were not granted any amount under heading "Future Prospect". Lastly, the claimants/appellants were granted only Rs. 2000/- as "General Damages" against their lawful entitlement of Rs. 30,000/-. Accordingly, it was argued that a lesser quantum of compensation has been awarded by the Tribunal.

Learned advocate appeared on behalf of the respondent/Insurance Company argued that there is no scope of interference of the appellate court at this stage and also submit that tribunal should use multiplier 17 instead of 18 as used in the award.

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,*** and also following the precedence of this Court on the point of future prospect and general damages.

This court is also of the view that addition 40% prayed for by the appellants/claimants, on account of 'future prospect' on the income of the deceased is justified along with the general damages of Rs. 30,000/- instead of Rs. 2000/- as granted by the tribunal and the correct multiplier is 17 in respect of age of the deceased i.e. 28 years instead of 18 as chosen by tribunal in the award.

In view of the above observation, the impugned award is thus modified to that extent and the claimants/appellants are found entitled to a total amount of Rs. 4,58,400/- together with interest thereon at the rate of 6% per annum from the date lodgment of claim application till the date of receipt of payment.

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

Particulars	**Amount (Rs.)**
Monthly Income =	Rs.3,000/-
Yearly Income(x12)	Rs.36,000/-
After deduction 1/2	Rs.18,000/-
In addition 40% future prospect	Rs.7,200/- (18000x40%)
Total annual loss of income	Rs. 25,200/-
Age 28 Multiplier 17	Rs.4,28,400/- (25,200x17)
General Damages	Rs.30,000/-
Total Compensation	Rs.4,58,400/-
Tribunal awarded	Rs.3,26,000/-
Payable	Rs.1,32,400/-

The appellants/claimants acknowledge the receipt of sum of the entire awarded amount of Rs. 3,26,000/-

along with interest. The balance sum of Rs. 1,32,400 would become payable to the appellants/claimants together with interest assessed at the rate of 6 per centum from the date of filing of the claim application till the date of payment within 45 days from the date of receipt of the bank account particulars of the appellants/claimants, peremptorily. Learned advocate for the appellants/claimants will forward the bank account details of the appellants/claimants within a fortnight from date to advocate for the respondent/Insurance Company. The payment shall be made by the respondent/Insurance Company to the appellants/claimants in the same manner and proportionate as indicated in the tribunal award.

With the aforesaid directions the instant appeal is disposed of.

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

In view of the disposal of this appeal, connected application, if any, is also disposed of.

There shall 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.)