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(Via Video Conference)

F.M.A.T 842 of 2016
with
I.A. No.CAN 1 of 2016
(Old No.CAN 11670 OF 2016)

Tapas Kumar Chatterjee
Vs.
The National Insurance Co. Ltd. & Ors.

Mr. Amit Ranjan Roy

...For the Appellants/
Claimants.

Ms. Sucharita Paul

....For the Respondent/
Insurance Company.

I.A. No.CAN 1 of 2016
(Old No.CAN 11670 OF 2016)

This is an application for condonation of delay in filing the instant appeal.

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

Accordingly, the application for condonation of delay being CAN 1 of 2016 (CAN 11670 of 2016) is disposed of.

FMAT 842 of 2016

The instant appeal has been directed against the judgment and award dated February 23, 2016 passed by the Motor Accident Claims Tribunal, 2nd Court, Suri, Birbhum in M.A.C. Case No. 97 of 2010 in a claim under

Section 166 of the Motor Vehicles Act, 1988 for the death of one Paramananda Chatterjee in a road accident dated January 1, 2010.

Various point have been raised by the claimants/appellants in the instant appeal challenging the quantum of compensation. Mr. Amit Ranjan Roy, counsel appearing on behalf of the claimants/appellants submitted that the tribunal has erroneously not considered 'future prospect' of the deceased. It is further submitted on behalf of the claimants/appellants that general damages of Rs.30,000/- was not awarded. Lastly, the claimants/appellants also took the plea that the tribunal erred in applying multiplier '1' instead of '9'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the tribunal.

Per contra, 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 the Hon'ble Supreme Court in the case 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 submission of the claimants/appellants. The claimants/appellants are

justified in praying for 15% addition on account of 'Future Prospect'. The deceased being 59 years old, appropriate multiplier of '9' should have been applied in the instant case. The claimants/appellants shall also be entitled to Rs.30,000/- under collective heads of general damages.

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

Particulars	Amount (Rs.)
Monthly Income	Rs.29,700/-
Annual Income	Rs.3,56,400/-
Add 15% future prospect (Rs.53,460/-)	Rs.4,09,860/-
Less 1/3 rd for personal expenses (Rs.1,36,620/-)	Rs.2,73,240/-
Multiplier '9'	Rs.24,59,160/-
Add 'General Damages'	Rs.30,000/-
TOTAL Principal Compensation	Rs.24,89,160/-
LESS – awarded by Tribunal and paid by insurer	<u>Rs.2,47,100/-</u>
BALANCE (enhancement)	<u>Rs.22,42,060/-</u>

The claimants/appellants acknowledges receipt of the awarded amount of Rs.2,47,100/- with interest. Accordingly, the balance enhanced sum of Rs.22,42,060/- would become payable to the claimants/appellants by the insurance company with interest assessed @ 6% per annum from the date of filing of the claim petition within a period of 45 days from the date of receipt of the bank account particulars of the claimants/appellants. Counsel for the claimants/appellants will forward the bank account details of the claimants/appellants within a fortnight from date to the counsel for the Insurance Company. The payment shall

be made to the claimants' bank accounts directly through NEFT/RTGS, in the 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 department concerned 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.)