24.06.2021
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F.M.A.T. 1157 of 2019
I.A. No.1 of 2021 (old No. CAN 11333 of 2019)
(Via Video Conference)

Mukta Rani Das & ors.
Vs.
National Insurance Co. Ltd. & anr.

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

Mr. Rajesh Singh
Ms. Sucharita Pal
... For the respondent/Insurance Co.

<u>I.A. No.1 of 2021 (old No. CAN 11333 OF 2019)</u>

Since the original application is not found in the file, the photostat copy of the application for condonation of delay is taken on record and the same be treated as original.

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.

<u>FMAT 1157 OF 2019</u>

The above appeal has been filed by the claimants, being the parents and sister of the victim, against an award dated 24.07.2019, passed by the Learned

Additional District Judge, Fast Track Court – II, Tamluk, Purba Medinipur, in M.A.C. Case No. 49 of 2018/CIS Regn No. – 154 of 2017, on a claim under Section 163A of the Motor Vehicles Act, 1988, for an accident which took place on August 21, 2015.

The 21 years old victim was a bachelor. It is submitted on behalf of the appellants that the Court below erroneously deducted 1/2 on account of personal expenses instead of 1/3rd as provided under section 163A of the Motor Vehicles Act, 1988.

The insurance company is represented and argues that the multiplier in the instant case should have been 17 instead of 18 as has been adopted by the learned tribunal and the amount under the collective heads of general damages should have been restrained to Rs.4,500/-. The learned Court below had wrongly awarded a total sum of Rs.30,000/- on such heads.

After considering the submissions as advanced by the learned advocates for the parties, the impugned award is modified and the claimants are found entitled to a total amount of Rs.4,12,500/- 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.

Taking the monthly income of the victim to be Rs.3,000/- and after annualising such amount and deducting 1/3rd on account of personal expenses, it is the figure of Rs.24,000/- on which the multiplier of 17 will have to be applied. The net pecuniary compensation comes to Rs.4,08,000/-. The appellants are also entitled to general damages of Rs.4,500/- on account of loss of estate and funeral expenses, taking the gross compensation to Rs.4,12,500/- 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 claimants acknowledge receipt of a sum of the entire awarded amount along with interest. The balance sum of Rs.58,500/- would become payable to the appellants together with interest assessed at the rate of 6 per cent per annum on and 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 appellants. Advocate for the Appellants will forward the bank account details of the appellants within a fortnight from date to Advocate for the insurance company. The payment shall be made in the proportion 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.

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

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.)