

S/L 18
02.7.2021
Court No.26
SD

FMAT 1163 of 2019
With
CAN 1 of 2019
(Old CAN 11094 of 2019)
(Via Video Conference)

Rangila Begum & Ors.
Vs.
The National Insurance Co. Ltd. & Ors.

Mr. Amit Ranjan Roy

...for the Appellants/ Claimants.

Ms. Sucharita Paul

...for the Respondents/Insurance Co.

CAN 1 of 2019 (Old CAN 11094 of 2019):

This is an application for condonaion of delay in filling the instant appeal.

On perusal of the pleading, this court is satisfied that cause shown for delay in filling of the appeal is sufficient and prayer for condonation of delay should be allowed.

Accordingly, the application for condonation of delay being CAN 1 of 2019 (old CAN 11094 of 2019) stands allowed.

FMAT 1163 of 2019:

The above appeal has been filed against the judgment and award dated June 12, 2019 passed by the Judge, Motor Accident Claims Tribunal, 1st Court, Burdwan, Purba Bardhaman, in M.A.C Case No. 13 of 2015, on a claim under section 166 of the Motor Vehicles Act, 1988.

Mr. Amit Ranjan Roy, counsel appearing on behalf of the claimants submit that the 22 years old victim was earning Rs.12,000/- per month as a mason. However, Tribunal erroneously took the income to be Rs.3,000/- per month. The appellants further submit that the multiplier adopted should have been 18 instead of 17 and the claimants are

entitled to 40% future prospects on the income of the deceased in view of the law as it stands now after the judgments delivered by the Hon'ble Supreme Court 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**.

Mrs. Sucharita Paul, counsel appearing on behalf of the insurance company argues that the Tribunal was correct in accepting the income of the victim to be Rs.3,000/- in absence of any documentary evidence.

This Court is inclined to accept the submissions made on behalf of the insurance company. However, it is now accepted in this court for some time that 2015 onwards, the base income has to be taken at Rs.5,000/- per month. Moreover, such amount of Rs.5,000/- per month does not appear to be exorbitant at all for the year 2015, as an unskilled worker working on all days could have earned Rs.5,000/- per month. Accordingly, on such basis and considering the submissions as advanced by the learned advocates for the parties, in my opinion, the income of the victim should be taken as Rs.5,000/- per month.

The award is therefore modified and reassessed. Upon taking the monthly income of the victim to be Rs.5,000/- and adding 40% on account of future prospects, the total notional monthly income comes to Rs.7,000/-. After annualising such amount and deducting one third on account of personal expenses, it is the figure of Rs.56,000/- on which the multiplier of 18 will have to be applied. Accordingly, the net pecuniary compensation comes to Rs.10,08,000/-. After adding a further sum of Rs.70,000/- on account of loss of consortium, loss of estate and funeral expenses, the gross compensation comes to Rs.10,78,000/- 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 the entire awarded amount of Rs.4,78,000/-along with interest. The balance sum of Rs.6,00,000/- would be paid 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.

There shall be no order as to costs.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

The Registry is directed to send down the lower court records at once, if received by this time.

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.)