S/L 20
26.7.2021
Court No.26
SD

FMA 673 of 2021
With
CAN 1 of 2018
(Old CAN 9742 of 2018)
(Application is not in the file)
(Via Video Conference)

Sandhya Rani Das
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy
... for the Appellant/Claimant.
Mr. Rajesh Singh
... for the Respondent/Insurance Co.

The instant appeal has been filed by the claimant against the judgment and award dated May 29, 2018 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-II, Tamluk, Purba Medinipur, in M.A.C. Case No.102 of 2013 on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 55 years old 'Surabala Das' in a road accident dated November 16, 2003.

Various points have been raised by the claimant in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellant that the claimant was not granted any amount under 'future prospect'. Claimant also submits that she was erroneously given only Rs.15,000/- instead of Rs.30,000/- under the full component of 'general damages'. Lastly, claimant pleads that the learned Judge erred in not granting 'interest' on the compensation amount from the date of filing of claim application. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, the Learned Advocate representing the insurance company argues that in the facts and circumstances of the instant case and considering the judgments of Hon'ble Supreme Court prevailing at the time of passing of the award, the compensation is just and reasonable and there is no further scope of enhancement of the same.

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***, I find substance in the arguments of the appellant. Claimant is justified in praying for 10% addition on account of 'future prospect' on the income of the deceased and she should also get Rs.30,000/- under collective heads of general damages. On the point of interest, I find that Tribunal has awarded the same from the date of argument, i.e.- 05.03.2018 and not from the date of filing (09.04.2013) of claim case. For not granting the interest from the date of filing, Court below specifically held that there was delay on the part of claimant in conducting the proceeding. Claimant took several adjournments after filing the claim case on the ground that she would bring the dismissal order from Alipore Court regarding a previous claim case filed against the selfsame cause of action. However, considering all aspects and for the ends of justice, I grant interest to the claimant from 21.01.2015, when the last witness in the claim case was examined.

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

Particulars	**Amount (Rs.)**
Monthly Income	Rs.3,000/-
Annual Income	Rs.36,000/
Less 1/3rd for personal expenses (Rs.12,000/-)	Rs.24,000/-
Add 10% future prospect (Rs.2,400/-)	Rs.26,400/-
Multiplier '11'	Rs.2,90,400/-
Add 'General Damages'	Rs.30,000/-
TOTAL Principal Compensation	Rs.3,20,400/-
LESS – awarded by Tribunal and paid by insurer	Rs.2,79,000/-
BALANCE (enhancement)	Rs.41,400/-

The claimant acknowledges receipt of the awarded amount of Rs.2,79,000/- in terms of the direction of the tribunal. Accordingly, the balance enhanced sum of Rs.41,400/- would become payable to the appellant by the insurance company, together with interest assessed at the rate of 6 percent per annum on and from 21.01.2015, within a period of 45 days from the date of receipt of the bank account particulars of the appellant. The claimant would also receive interest for the period 21.01.2015 to 05.03.2018 on the already awarded and paid amount of Rs.2,79,000/-, at the same rate of 6% per annum. Advocate for the Appellant will forward the bank account details of the appellant within a fortnight from date to Advocate for the insurance company.

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 application, if any, is 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.)