24.06.2021
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F.M.A.T. 1264 of 2019
I.A. No.1 of 2021 (old No. CAN 12228 of 2019)
(Via Video Conference)

Madhu Devi & ors.
Vs.
The Oriental Insurance Co. Ltd. & anr.

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

Mr. Rajesh Singh
... For the respondent/Insurance Co.

I.A. No.1 of 2019(old No.CAN 12228 OF 2019)

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.

FMAT 1264 OF 2019

The claimants are aggrieved by the inadequate compensation granted by the tribunal in its award dated June 21, 2019 passed by the learned Judge, Motor

Accident Claims Tribunal, 1st Court, Howrah in M.A.C. Case No. 26 of 2015, on a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 'Shivadev Paswan @ Shiv Deo Paswan @ Shivdev' in a road accident which took place on May 23, 2014.

Two points have been mainly raised by the claimants in the instant appeal. It is submitted on behalf of the appellants that the monthly income of Rs.3,000/- of the victim considered for by the Ld. Judge was inadequate. Further, the claimants were not granted any amount under 'future prospect'. Accordingly, it was argued that a lesser quantum of compensation has been erroneously awarded by the Tribunal.

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 monthly income, I find substance in the arguments of the appellants. For the year 2014, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.4,000/- per month does not appear to be exorbitant.

Similarly, appellants are justified in praying for 25% addition on account of 'future prospect' on the income of the deceased. The appellants however admit that the total component of General Damages, in the instant case should be Rs.70,000/- instead of Rs.1,12,500/- as granted by the Court below and the correct multiplier of '14' should have been applied in place of '15' used by the Ld. Tribunal.

The impugned award is thus modified and the claimants are found entitled to a total amount of Rs.6,30,000/- 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.4,000/-, the annual income comes to Rs.48,000/-. By adding 25% future prospect and deducting 1/3rd on account of personal expenses, it is the figure of Rs.40,000/- on which the multiplier of 14 will have to be applied. The net pecuniary compensation comes to Rs.5,60,000/-. The appellants are also entitled to general damages of Rs.70,000/- on account of loss of consortium, loss of estate and funeral expenses, taking the gross compensation to Rs.6,30,000/- 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 a sum of the entire awarded amount of Rs.4,72,500/- along with interest. The balance sum of Rs.1,57,500/- 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.

FMAT 1264 of 2019 is disposed of. There will be no order as to costs.

In view of the disposal of this appeal, connected application, if any, is also disposed of. The concerned Department is directed to tag the applications, if any, with the main appeal.

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.)