S/L 33
16.8.2021
Court No.26
SD

FMAT 1152 of 2016
With
CAN 1 of 2020
(Old CAN 2894 of 2020)
With
CAN 2 of 2021
(Application is not in the file)
(Via Video Conference)

Smt. Purnamaya Rai & Anr.
Vs.
The National Insurance Co. Ltd. & Anr.

Mr. Subir Banerjee
Mr. Sandip Bandyopadhyay
... for the Appellants/Claimants.
Mr. Saibalendu Bhowmick
... for the Respondent/Insurance Co.

CAN 2 of 2021:-

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 being CAN 2 of 2021 stands allowed.

FMAT 1152 of 2016:-

The appeal is directed against the judgment and award dated January 28, 2016 passed by the learned Judge, Motor Accident Claims Tribunal, 1st Court, Additional District Judge, Siliguri, Darjeeling in M.A.C. Case No.112 of 2008.

Various points have been raised by the appellants/claimants in the instant appeal. The appellants submit that though the Tribunal assessed the monthly income of the appellant as Rs.5,680/- from his employer in

Government service but the Tribunal did not grant any amount under 'future prospect'. Appellants/claimants also submit that the Tribunal ought to have applied multiplier 18 instead of multiplier 15 as per the age of the deceased and they were erroneously given only Rs.4,500/- instead of Rs.30,000/- under the full component of 'general damages'.

Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the Tribunal.

Per contra, counsel appearing on behalf of 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 judgments of ***Smt. Sarla Verma & ors. vs. Delhi Transport Corporation & Anr.*** reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Limited vs. Pranay Sethi & Ors.*** reported in ***(2017) 16 SCC 680.*** I find substance in the arguments of the appellants. Appellants are justified in praying for50% addition on account of 'future prospect' on the income of the deceased and Rs.30,000/- under collective heads of general damages. In view of the judgments cited above the correct multiplier should be 18.

Accordingly, the impugned award is modified and recalculated in the manner referred hereinabove:-

Particulars	Amount (Rs.)
Monthly income	5,680.00
Annual income	68,160.00
Add: 50% future prospect	(+)34,080.00
	1,02,240.00
Less: 50% for personal expenses	(-)51,120.00
	51,120.00
Multiplier of 18 to be used	(x) 18
	9,20,160.00
Add: General damages	(+) 30,000.00
	9,50,160.00
Less: Awarded amount	(-) 5,15,700.00
Differential amount	**4,34,460.00**

The claimants/appellants acknowledged receipt of the awarded amount of Rs.5,15,700/- in terms of the direction of the Tribunal. Accordingly, the balance enhanced sum of Rs.4,34,460/- would become payable to the appellant no.1 being the mother of the deceased by the Insurance company together with interest assessed at the rate of 4% per annum on and from the date of filing of the claim petition till payment within 45 days from the receipt of the particulars of their bank accounts to be supplied by their counsel to the counsel for the insurance company.

Advocate for the appellants will forwarded the bank account details of the appellant no.1 within a fortnight from date to the advocate for the Insurance Company. The payment shall be made to the bank accounts of the claimant/appellant no.1 directly.

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.)