S/L 13
22.7.2021
Court No.26
AD

FMAT 1286 of 2019
With
IA No.: CAN 1 of 2021
(Via Video Conference)

Sufal Hansda
Vs.
United India Insurance Co. Ltd. & Ors.

Mr. Muktakesh Das
... for the Appellant/Claimant.
Mrs. Sucharita Paul
... for the Respondent/Insurance Co.

CAN 1 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 1 of 2021 stands allowed.

FMAT 1286 of 2019

The above appeal has been filed by the claimant against an award dated 14th January, 2019, passed by the Learned Judge, Motor Accident Claim Tribunal & Additional District Judge, Fast Track Court-IV, Krishnanagar, Nadia, in M.A.C. Case No. 102 of 2016, on a claim under Section 163A of the Motor Vehicles Act, 1988.

The appellant submits that the notional income of the victim should have been taken to be Rs.3,000/- per month instead of Rs.15,000/- per annum. The appellant further submits that the Court below erroneously deducted 1/2 on account of personal expenses of the victim, instead of 1/3rd, as provided under section 163A of the Motor Vehicles Act, 1988 (hereinafter referred to as the said Act) .The claimant relies on the dictum in *Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr., reported in (2009) 6 SCC 121* as affirmed in *Reshma Kumari reported in (2013) 9 SCC 65,* to suggest that the applicable multiplier in the instant case should be 20 and not 15 as applied by the tribunal.

Mrs. Paul, the learned Advocate appearing on behalf of the Insurance Company opposes the submissions made by the appellant on the point of income and submits that admittedly the victim was an 8 years old school going minor. Accordingly, the notional income of the minor victim cannot be taken to be Rs.3,000/- per month and the Learned Tribunal rightly assessed the compensation amount on the basis of notional income of Rs.15,000/- per annum. Insurance Company further submits that the total sum awarded under the collective heads of general damages should have been restricted to Rs.4,500/- only, in view of second schedule under section 163A of the said Act.

This Court finds substance in the arguments made by the Insurance Company on the point of income of the victim and holds that the Tribunal had rightly taken the notional income of the 8 years old school going minor victim at Rs. 15,000/- per annum in accordance with second schedule under section 163A of the said Act, for assessing the compensation amount.

The appellant is, however, correct in submitting that in the instant case a multiplier of 20 should have been applied. Similarly, the argument of the insurer regarding non-pecuniary expenses being restricted to Rs.4,500/- is also accepted.

Accordingly, after considering the submissions as advanced by the learned advocates for the parties, the impugned award is modified and recalculated as follows:

Particulars	Amount (Rs.)
Yearly income	15,000.00
Less: 1/3rd for personal expenses	- 5,000.00
	10,000.00
Multiplier of 20 to be used	(x) 20
	2,00,000.00
Collective heads of General Damages	(+) 4,500.00
	2,04,500.00
Less: Awarded amount	(-) 1,42,500.00
Differential amount	62,000.00

The claimant acknowledges receipt of the entire awarded amount of Rs.1,42,500/- along with interest. The balance amount of Rs.62,000/- would become payable to the claimant by the Insurance Company together with interest assessed @ 6 per cent per annum, 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 claimant. Advocate for the claimant will forward the bank account details of the claimant within a fortnight from date to the 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 concerned Department is directed to tag the applications, if any, with the main appeal.

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.)