

Ct. 23.8
No. 26 2021
2
akb

F.M.A.T. 1275 of 2012
Champa Das & Ors.
Vs.
The Oriental Insurance Co. Ltd. & Ors..
(Via Video Conference)

Mr. Amit Ranjan Roy **...For the Appellants/Claimants**
Mr. Rajesh Singh **...For the Respondent/Insurance Co.**

Re.: C.A.N. 1626 of 2020

This is an application for condonation of delay in filing the instant appeal. After hearing the parties and on perusal of the pleadings, this Court is satisfied that the causes 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.

Re.: F.M.A.T. 1275 of 2012

The appeal is directed against judgment and award dated March 01, 2012 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, 5th Court, Nadia, in M.A.C. Case No. 174 of 2009.

Various points have been raised by the claimants in the instant appeal challenging the quantum of compensation. Appellants submit that they were not granted any amount under 'future prospect'. Claimants further submit that in view of four (4) numbers of dependents, the deduction for 'personal expenses' should be 1/4th of the victim's income. Appellants also plead that the learned Tribunal did not grant the full component of Rs.70,000/- under 'general damages'. Lastly, claimants are pray for

granting of 'interest' on the compensation amount on and from the date of filing of the claim application till the date of realization. Accordingly, it was submitted that a lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

Mr. Amit Ranjan Roy, learned Counsel for the appellants also informed this Court that appellant nos. 2 & 3 were minors at the time of filing of the claim case before the Tribunal. Both the said appellants have now attained the age of majority.

Per contra, the learned Counsel representing 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 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 appellants. Claimants are justified in praying for 25% addition on account of 'future prospect' on the income of the deceased. The deduction for 'personal expenses' is to be only 1/4th income of the deceased. The amount for 'general damages' should be Rs.70,000/- instead of Rs.9500/- as granted by the Court below and in view of Section 171 of the Motor Vehicle Act, 1988 the appellants would be entitled to 'interest' on the compensation amount.

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

Monthly Income	Rs. 3,000/-
Annual Income	Rs. 36,000/-
Less 1/4th for personal expenses (Rs.9,000/-)	Rs. 27,000/-
 Add - 25% 'future prospect' (Rs.6,750/-)	 Rs. 33,750/-
Multiplier '13' (13 X 33,750)	Rs.4,38,750/-
Add 'General Damages'	Rs. 70,000/-
TOTAL Principal Compensation	Rs.5,08,750/-
LESS – awarded by Tribunal and already paid	<u>Rs.3,21,500/-</u>
 BALANCE (enhancement)	 <u>Rs.1,87,250/-</u>

The claimants acknowledge receipt of the awarded amount of Rs.3,21,500/- in terms of the direction passed by the learned Tribunal. Accordingly, the balance enhanced sum of Rs.1,87,250/- would become payable to the appellants by the Insurance Company, 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. The Tribunal did not grant interest on the awarded sum of Rs.3,21,500/- from the date of filing of claim application. Therefore, Insurance company shall pay 6% interest on the said sum also on and from the date of filing of the claim application till the date of payment made, in terms of the direction already passed hereinabove.

The payment shall be made by the insurer to the appellants in the same manner and proportion as decided by the Court below and by treating the appellant nos. 2 and 3 as major.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, connected application, if any, is also disposed of. The concerned Department is directed to trace out the application and tag the same with this appeal.

There shall be no further order as to costs.

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.)