

S/L 1
22.7.2021
Court No.26
SD

FMAT 1048 of 2013
With
CAN 1 of 2020
(Old CAN 1045 of 2020)
(Application is not in the file)
(Via Video Conference)

Belu Bewa & Ors.
Vs.
National Insurance Co. Ltd. & Anr.

Mr. Jayanta Banerjee

...for the Appellants/Claimants.

Ms. Sucharita Paul

...for the Respondents/Insurance Co.

CAN 1 of 2020 (Old CAN 1045 of 2020):-

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 2020 (Old CAN 1045 of 2020) stands allowed.

F.M.A.T. 1048 of 2013:-

The above appeal has been filed by the claimants against the judgement and award dated September 11, 2012, passed by the Member, Motor Accident Claims Tribunal, Additional District Judge, 1st Court, Nadia in M.A.C. Case No.27 of 2004 on a claim under section 166 of the Motor Vehicles Act, 1988.

The appellants submit that the claimants are entitled to 25% future prospects on the income of the deceased and a total sum of Rs.70,000/- under the collective heads of

general damages, in view of the law as it stands now after the judgments delivered by the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.***, reported in ***(2017) 16 SCC 680***. The appellants further submit that considering 7 nos. of dependents, the deductions on account of personal expenses of the victim should have been 1/5th instead of 1/3rd, in view of the judgment passed by Hon'ble Supreme Court in the case of ***Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.***, reported in ***(2009) 6 SCC 121***.

The Insurance Company is represented.

Accordingly, after considering the submissions of counsel appearing on behalf of the parties, the impugned award is modified and reassessed as follows:

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly income	4,000.00
Add 25% future prospect	(+)1,000.00
	5,000.00
	<u>X 12</u>
	60,000.00
Less: 1/5 th personal expenses	(-) 12,000.00
	48,000.00
Multiplier of 13 to be used	<u>(x) 13</u>
	6,24,000.00
Collective heads of General Damages	(+) 70,000.00
	6,94,000.00
Less: Awarded amount	(-) 4,25,500.00
Differential amount	<u>2,68,500.00</u>

The claimants acknowledge receipt of the entire awarded amount of Rs.4,25,500/- along with interest. The balance amount of Rs.2,68,500/- would become payable to the claimants 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 claimants. Advocate for the claimants will forward the bank account details of the claimants within a fortnight from date

to the Advocate for the insurance company. The payment shall be made in the proportion decided by the Court below.

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.)