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F.M.A.T. 1183 of 2016

Singha Murmu & Ors.
Vs.
The Oriental Insurance Co. Ltd. & Anr.
(Via Video Conference)

Mr. Amit Ranjan Roy ...**For the Appellants/Claimants**

Mr. Sanjay Paul ...**For the Respondent/Insurance Co.**

Re.: IA No. 1 of 2018 (Old No. C.A.N. 8780 of 2018.

Since the original application is not found in the file, photostat copy of the application for condonation of delay is taken on record by treating the same as original one.

This is an application for condonation of delay in filing the instant appeal.

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. 1183 of 2016

This appeal is directed against the judgment and award dated February 26, 2016 passed by the learned Additional District Judge, Fast Track, 1st Court, Motor Accident Claims Tribunal, Paschim Medinipur, in M.A.C. Case No. 78 of 2015.

Mainly two points have been raised by the appellants/claimants in the instant appeal challenging the quantum of compensation.

Mr. Amit Ranjan Roy, learned Counsel, appearing on behalf of the appellants, submitted that claimants/appellants were not granted any amount as 'future prospect'. Appellants/claimants also submitted that they were erroneously given Rs.9,500/- instead of Rs. 70,000/- under different heads of general damages. Accordingly, it has been argued on behalf of the appellants/claimants that lesser quantum of compensation has been wrongfully awarded by the learned Tribunal.

Per contra Mr. Sanjay Paul, learned Counsel, representing the respondent Insurance Company argues that the award is just and reasonable and there is no scope of enhancement of the award. He further submits that the learned Tribunal committed error in law while applied multiplier 17 instead of 16 since the deceased was 35 years old.

Considering the judgments of the Hon'ble Apex Court in the case of ***Smt. Sarala Verma & Ors. –Vs.- Delhi Transport Corporation & Anr.***, reported in **(2009) 6 SCC 121** and in the case of **National Insurance Company Limited -Vs.- Pranay Sethi & Ors.**, reported in **(2017) 16 SCC 680**, I find substance in the submissions of the appellants/claimants and they are justified in praying 40% addition on the account of ' future prospect' on the income of the deceased since the deceased 35 years old and also justified in praying Rs.70,000/- instead of Rs.9,500/- on account of general damages. However, since the deceased was 35 years old the appropriate multiplier shall be 16 instead of 17, as applied by the tribunal.

Accordingly, the impugned award is required to be modified and recalculated in the following manner :

Monthly income	**Rs. 6,000/-**
Yearly income	**Rs. 72,000/-**
Less: 1/3 deduction (72000-24000)	**Rs. 48,000/-**
40% future prospect (48000X40%)	**Rs. 19,200/-**
Total loss of income	**Rs. 67,200/-**
Age 35 Multiplier 16 (67200X16)	**Rs.10,75,200/-**
General damages	**Rs. 70,000/-**
Total compensation	**Rs.11,45,200/-**
Tribunal awarded	**Rs. 8,25,500/-**
Compensation payable	**Rs. 3,19,700/-**

Mr. Roy acknowledges that the appellants / claimants received the entire awarded sum of Rs.8,25,500/- along with interest in terms of the direction of the learned Tribunal. Accordingly, the balance enhanced sum of Rs.3,19,700/- would become payable to the appellants/claimants by the respondent Insurance company together with interest assessed @ 6% per annum on and from the date of filing of the claim application till the date of payment.

The respondent Insurance Company is hereby directed to pay Rs.3,19,700/- with 6% interest per annum on and from the date of filing claim application till the payment made directly to the bank account of the appellants/claimants within a period of 45 days from date.

It is made it clear that all the payments shall be made through NEFT/RTGS to the bank accounts of the appellants/claimants and for such purpose the Counsel for the appellants/claimants shall furnish bank accounts particulars of the appellants/claimants to the Counsel for the Insurance Company within two weeks.

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.)