Ct. No. 26

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F.M.A.T 1363 of 2017

With

IA No. 1 of 2019 (Old No. C.A.N. 6671 of 2019)

Runu Chakraborty & Ors.

Vs.

The National 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 2019 (Old No. C.A.N. 6671 of 2019)

Since, the original application is not found in the file, the 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 cause shown for delay in filing the appeal is sufficient and the prayer for condonation of delay should be allowed.

Accordingly, the application for condonation of delay stands allowed.

F.M.A.T 1363 of 2017

The appeal is directed against the judgment and award dated June 05, 2017 passed by the learned Judge, Motor Accident Claims Tribunal, 4^{th} Court, Burdwan, in M.A.C. Case No. 37/231 of 2015, in a claim under Section 166 of the Motor Vehicles Act, 1988, praying for compensation for death of 39 years old 'Partha Sarathi Chakraborty' who died in a road accident which took place on June 02, 2015.

Mr. Amit Ranjan Roy, learned Counsel appearing on behalf of the appellants, has challenged the quantum of compensation on various grounds. Appellants submit that the learned Judge disregarded oral and documentary evidence produced and wrongfully considered the income of the deceased at Rs.3,000/- per month. Accordingly, it was argued that a 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 in view of the Supreme Court judgment the learned Judge erred in law while considered the additional income towards future prospect 30% instead of 25% on the income of the 40 years old deceased and Mr. Paul further submits that the learned Judge also committed error in law while granted Rs. 1,50,000/- on account of general damages instead of Rs.70,000/-.

Herd the submissions of the parties. Considering the judgments of the Hon'ble Apex Court in the cases 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** and also following the precedence of this Court on the point of monthly income, I find substance in the submissions of the appellants/claimants. For the year 2015, in a claim under Section 166 of the Motor Vehicles Act, 1988 an amount of Rs.5,000/- per month does not appears to be exorbitant. Appellants are entitled to get 25% addition on account of 'future prospect' on the income of 40 years old deceased instead of 30% and general damages of Rs.70,000/- instead of Rs.1,50,000/- in view of the settled law. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter :

Monthly income	**Rs.**	**5,000/-**
Yearly income	**Rs.**	**60,000/-**

Deduction 1/3rd	**Rs. 20,000/-**
	Rs. 40,000/-
Add. 25% future prospect	**Rs. 10,000/-**
Age 40 Multiplier 15 (50,000 X 15)	**Rs. 7,50,000/-**
General damages	**Rs. 70,000/-**
Total compensation	**Rs. 8,20,000/-**
Tribunal awarded	**Rs. 6,18,000/-**
Compensation payable	**Rs. 2,02,000/-**

The claimants acknowledge receipt of the awarded amount of Rs. 6,18,000/- along with interest. Accordingly, the balance enhanced sum of Rs.2,02,000/- 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 within a period of 45 days from the date of receipt of the bank account particulars of the appellants.

Learned Counsel for the appellants will forward the bank particulars of the appellants within a fortnight from date to the learned Counsel for the Insurance Company.

The payment shall be made by the Insurance Company directly in the bank accounts of the claimants through NEFT/REGS, in the same manner and proportion as 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 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.)