

24.09.2021

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F.M.A.T. 1364 of 2017
I.A. CAN 1 of 2021
(Via Video Conference)

Chandana Hembram
Vs.
The National Insurance Co. Ltd. & ors.

Mr. Rajdeep Bhattacharya
...For the Appellant/claimant

Ms. Sucharita Paul
... For the respondent No.1/Insurance Co.

CAN 1 of 2021

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

On perusal of the pleadings and considering the arguments made on behalf of both the parties, 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.

F.M.A.T. 1364 of 2017

The above appeal has been filed by the claimant against the judgement and order 15th April, 2016, passed by the Learned Judge, Motor Accident Claims Tribunal and Additional District Judge, 2nd Court, Barasat, North 24 Parganas in M.A.C. Case No.766 of 2014 in a claim under Section 166 of the Motor Vehicles Act, 1988.

The appellant submits that the claimants are entitled to 50% future prospects on the income of the 39 years old deceased who was working as an Assistant Sub-Inspector with the West Bengal Police. The appellant further submits that the claimants are also entitled to 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*.

Insurance Company is represented.

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

<u>Particulars</u>		<u>Amount (Rs.)</u>
Monthly income		17,752.00
Add 50% future prospect	(+)	<u>8,876.00</u>
		26,628.00
Annual income_ X 12		3,19,536.00
Less: 1/3rd personal expenses	(-)	<u>1,06,512.00</u>
		2,13,024.00
Multiplier of 15 to be used	(x) 15	31,95,360.00
Collective heads of General Damages	(+)	<u>70,000.00</u>
		32,65,360.00
Less: Awarded amount	(-)	<u>21,39,740.00</u>
Differential amount		<u>11,25,620.00</u>

The claimants acknowledge receipt of the entire awarded amount of Rs.21,39,740/- along with interest. The balance amount of Rs.11,25,620/- 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. Learned advocate for the claimants will forward the bank account details of the claimants within a fortnight from date to the learned 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.

In view of the disposal of this appeal, connected applications, if any, are also disposed of. The concerned Department is directed to tag the applications, if any, with the main appeal

There will be no order as to costs.

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.)