

09 26.07.2021
Ct. 26
SA/tbsr

(Via Video Conference)

FMAT 1365 of 2017
with
I.A. No. CAN 1 OF 2021

Kalyani Biswas & Ors.
-Vs.-
The National Insurance Co. Ltd. & Anr.

Mr. Rajdeep Bhattacharya

...For the Appellants/
Claimants.

Ms. Sucharita Paul

...For the Respondent/
Insurance Co.

I.A. No. CAN 1 of 2021

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 stands allowed.

CAN 1 of 2021 is disposed of.

F.M.A.T 1365 of 2017

By consent of the parties, the instant appeal is treated as on day's list and is taken up for hearing.

The appeal is directed against the judgment and award dated April 15, 2016 passed by the learned

Additional District Judge, 2nd Court at Barasat, North 24-Parganas in Motor Accident Claim Case No. 767 of 2014.

The claim application has been filed under Section 166 of the Motor Vehicles Act, 1988.

The appellants/claimants submit that the appellants/claimants are entitled to 30% Future Prospects of the deceased. The claimants/appellants further submit that they 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 Limited Vs. Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680.

Learned advocate appearing on behalf of the respondent/Insurance Company argued that the correct multiplier in the instant case should be 14 instead of 15, as adopted by the learned court below, 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.

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

<u>Particulars</u>	<u>Amount (Rs.)</u>
Monthly Income	Rs.18,084.00
Add 30% future prospect	(+) 5,425.00(rounded of)

	23,509.00
	X12

	2,82,108.00
less: 1/3 rd personal expenses	(-) 94,036.00

	1,88,072.00
Multiplier of 14 to be used	(x) 14

	26,33,008.00
Collective heads of General Damages (+)	70,000.00

	27,03,008.00
Less: Awarded amount	(-)21,74,580.00

Differential Amount	5,28,428.00

The appellants/claimants acknowledge the receipt of the entire amount of Rs. 21,74,580/- along with interest. The balance amount of Rs. 5,28,428/- would become payable to the appellants/claimants by the respondent/Insurance Company together with interest assessed at the rate of 6% 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 appellants/claimants. Learned advocate for the appellants/claimants will forward the bank account details of the appellants/claimants within a fortnight from date to the advocate for the respondent/Insurance Company. The payment shall be made in the manner and proportion decided by the court below.

With the aforesaid directions the instant appeal is disposed of.

LCR, if any may be returned back to the Court below.

In view of the disposal of this appeal, connected application, if any, is also disposed of.

There shall 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.)