

4 26.07.2021
Sc

(Via Video Conference)

F.M.A.T 1575 of 2012
with
I.A. No. CAN 1 of 2021

Ava Rani Karmakar
Vs.
The New India Assurance Co. Ltd. & Ors.

Mr. Jayanta Banerjee

...For the Appellant/
Claimant.

Mr. Rajesh Singh

...For the Respondent/
Assurance Co. Ltd.

C.A.N. No.1 of 2021

CAN 1 of 2021 is an application for condonation of delay in filing this appeal.

On perusal of the pleadings in the application, 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 is allowed.

CAN 1 of 2021 is disposed of.

FMAT 1575 OF 2012

The appeal is directed against the judgment and order dated June 30, 2012 passed by the learned Judge, Motor Accident Claims Tribunal, District Judge, Nadia in M.A.C. Case No. 411 of 2007 for the death of a 28 years

old bachelor, namely 'Smarajit Karmakar' in a road accident dated October 26, 2006.

Various points have been raised by the appellant/claimant in the instant appeal challenging the quantum of compensation. It is submitted on behalf of the appellant/claimant that the monthly income of Rs.2,000/- of the victim considered by the learned Judge was inadequate. Further, the appellant/claimant was not granted any amount under 'future prospect'.

Learned advocate representing the appellant/claimant submits that the learned Judge erred in using the multiplier '8' instead of '17'. Lastly, the appellant/claimant has pleaded that she was erroneously given only Rs.8,000/- under the full component of 'general damages'. Accordingly, it was argued that a lesser quantum of compensation has been wrongfully awarded by the tribunal.

Per contra, learned advocate representing the respondent/insurance company argues that in the facts and circumstances of the case the award is just and reasonable and there is no further scope of enhancement of the same.

Considering the judgements of **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, reported in **(2009) 6 SCC 121** and **National Insurance Company Ltd. 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 arguments of the appellant/claimant. For the year 2006, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 3,000/- per month does not appear to be exorbitant. The appellant/claimant is justified in praying for 40% addition on account of 'future prospect' on the income of the deceased. Considering the 28 years of age of the victim, the appropriate multiplier of '17' should have been used and the appellant/claimant is also entitled to Rs.30,000/- under collective heads of general damages. Accordingly, the impugned award is modified and recalculated in the manner referred hereinafter.

Particulars	Amount (Rs.)
Monthly Income	Rs.3,000/-
Annual Income	Rs.36,000/-
Less 50% for personal expenses (Rs.18,000/-)	Rs.18,000/-
Add - 40% 'future prospect' (Rs.7,200/-)	Rs.25,200/-
Multiplier '17'	Rs.4,28,400/-
Add 'General Damages'	Rs.30,000/-
Total Principal Compensation	Rs.4,58,400/-
Less – awarded by the tribunal and already paid	<u>Rs.1,04,000/-</u>
Balance (enhancement)	<u>Rs.3,54,400/-</u>

The appellant/claimant acknowledges the receipt of the awarded amount of Rs.1,04,000/- along with interest. Accordingly, the balance enhanced sum of Rs.3,54,400/- would become payable to the appellant/claimant by the insurance company, together with interest assessed at

the rate of 6% per annum on and from the date of filing of the claim application within a period of 45 days from the date of receipt of the bank account particulars of the appellant/claimant.

Learned advocate for the appellant/claimant will forward the bank account details of the appellant/claimant within a fortnight from date to learned advocate for the respondent/insurance company.

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 shall be no order as to costs.

The department is directed to send down the LCR.

Photostat certified copy of this order, if applied for, be furnished upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)