20 Sc 23.8.2021

(Via Video Conference)

F.M.A.T. 499 OF 2020
with
I.A. No. CAN 1 OF 2021

Ashadulla Sek

Vs.

The National Insurance Co. Ltd. & Anr.

Mr. Amit Ranjan Roy

...For the Appellant/ Claimant.

Mr. Parimal Kumar Pahari

...For the Respondent / Insurance Co.

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 the cause shown for delay in filing 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 disposed of.

FMAT 499 OF 2020

On consent of the parties the appeal is taken up for hearing.

The appeal has been filed by the appellant/claimant against the judgment and award dated 18th January, 2020 passed by the learned Additional District Judge, Fast Track Court – II Judge, Motor Accident Claims Tribunal, Tamluk, in M.A.C. Case No. 200 of 2013, in a claim under Section 166 of the

Motor Vehicles Act, 1988 for an accident which took place on 4th September, 2012.

The main grievance of the appellant/claimant is that the court below did not grant an adequate amount of compensation on account of disability, pain, suffering and trauma as a consequence of the injuries, future medical expenses, loss of amenities etc. in spite of the fact that the 37 years old injured had suffered 70% loss of earning capacity due to the severe injuries suffered by him in an accident.

The appellant/claimant claimed Rs.6000/- as his monthly income before the tribunal but the tribunal did not consider the same and awarded a lump sum of Rs.2,26,642/- as a compensation for the 70% disability suffered by the appellant/claimant as per the Disability Certificate, issued by the Medical Board, Haldia, S. D. Hospital. According to the appellant/claimant Rs.2,06,642/- has been incurred for the purpose of treatment. The appellant/claimant further points out that he is also entitled to 40% additional income on account of future prospect. However, the tribunal erred in not allowing the same.

The appellant/claimant relies upon the judgments passed by the Hon'ble Supreme Court, which are as follows :

(1995) 1 SCC 551 : R. D. Hattangadi vs. Pest Control (India) ; (2018) 4 SCC 571 : Jagadish vs. Mohan

& Ors.; (2017) 16 SCC 121 : Sarala Verma & Ors. vs. Delhi Transport Corporation; (2017) 16 SCC 680 : National Insurance Company Limited vs. Pranay Sethi.

From the record it is found that the victim had produced documents in support of his treatment and the said documents had been marked exhibits by the learned tribunal.

The insurance company is represented and opposed the case of the appellant/claimant. It is submitted by the insurance company that the tribunal considered the medical bill of Rs.2,06,642/- and the non pecuniary loss of Rs.20,000/- .

Having heard learned advocates for the parties and considering the materials on record this Court feels that an amount of Rs.50,000/- more on account of non pecuniary loss can be granted to the appellant/claimant and Rs. 4000/- can be granted as monthly income.

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

Particulars		**Amount (Rs.)**
Monthly Income		4,000/-
Annual Income (x 12)		48,000/-
Add future prospects 40%		19,200/
Annual loss of income		67,200/
50% disablement		33,600/
Age 37, Multiplier 15		5,04,000/
Pecuniary loss		5,04,000/
Adding Rs.50000/- more		50,000/
Medical bill + non pecuniary		2,26,642/
Total compensation	-	7,80,642/
Tribunal awarded	2,26,642/	
Compensation payable	5,54,000/--	

The appellant/claimant acknowledges receipt of the entire awarded amount of Rs.2,26,642/- along with interest. The balance sum of Rs.5,54,000/- would become payable to the appellant/claimant by the insurance company together with interest assessed @6% per annum, from the date of filing of the claim application till payment within 45 days of receipt of the particulars of the bank account details of the appellant/claimant to be supplied by his advocate to the advocate for the insurance company.

It is made clear that the payments shall be made by NEFT/ RTGS.

Accordingly, with the above directions the appeal is disposed of.

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

The department is directed to send down the lower court records, if arrived, immediately.

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.

(Shekhar B. Saraf, J.)