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(Via Video Conference)

F.M.A. 500 OF 2020
with
I.A. No. CAN 1 OF 2021

Sk. Rajab alias Sk. Rajob Ali
Vs.
Shriram General Insurance Company Limited. & Anr.

Mr. Amit Ranjan Roy
...For the Appellant/ Claimant.

Mr. Rajesh Singh
...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 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 stands allowed.

CAN 1 of 2021 is disposed of.

F.M.A. 500 of 2020

This appeal is directed against the judgment and award dated February 26, 2020 passed by the learned Judge, Motor Accident Claims Tribunal, Fast Track, 1st

Court, Tamluk in M.A.C Case No. 42 of 2015/25 of 2018, in a claim under section 166 of the Motor Vehicles Act, 1988 for the 70% disability suffered by one 'Sk. Rajab alias Sk. Rajob Ali' in a road accident dated July 5, 2015.

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 his monthly income of Rs.4,000/-, as considered by the learned Judge, was inadequate. It is also submitted by the appellant/claimant that the court below did not grant any amount for 'future prospect' of the victim. The appellant/claimant also submits that the correct multiplier of '16' was not applied in his case and lastly, he submits that the tribunal erred in not granting 'non-pecuniary compensation' at all. Accordingly, it is submitted that a lesser quantum of compensation has been wrongfully awarded by the tribunal.

Per contra, Mr. Singh learned advocate representing the 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. He further submits that in view of 70% disability of the victim, the assessment of loss of earning capacity of the said victim should also correspond to victim's 70% income only.

Considering the decisions in ***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 2015, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs.5,000/- per month does not appear to be exorbitant. The appellant/claimant being 33 years old, the appropriate multiplier of '16' purchase factor is applicable in the instant case. The injured appellant/claimant would be entitled for addition of 40% of his income for future prospects. Lastly, the appellant/claimant is justified in praying for non-pecuniary compensation for his amputation and a collective sum of Rs.1,00,000/- is granted under its various heads. In order to assess the just compensation and considering the fact that the medical board gave the temporary disability certificate, the loss of earning capacity of the victim is considered to be 70% of his income.

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

Particulars	**Amount (Rs.)**
Monthly Income	Rs.5,000/-
Annual Income	Rs.60,000/
Add 40% future prospect	

of Rs.24,000/-)	Rs.84,000/-
70% disability (corresponding to 70% loss of income)	Rs.58,800/-
Multiplier ‘16’	Rs.9,40,800/-
Add ‘non pecuniary’ compensation of Rs.1,00,000/-	
Add ‘medical expenses’ granted by tribunal	Rs.1,96,005/-
Total Compensation	Rs.12,36,805/-
LESS – awarded by the tribunal and paid by the insurer	Rs.9,16,005/-
Balance (enhancement)	Rs.3,20,800/-

The appellant/claimant acknowledges receipt of the awarded amount of Rs.9,16,005/- along with interest. Accordingly, the balance enhanced sum of Rs.3,20,800/- would become payable to the appellant/claimant by the insurance company, together with interest assessed @ 6% per annum on and 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 appellant/claimant.

Learned advocate for the appellant/claimant will forward the bank account details of the appellant/claimant to the learned advocate for the insurance company within a period of fortnight from date. The payment shall be made to the appellant's/claimant's bank account directly through electronic fund transfer.

With the aforesaid directions the instant 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.

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.)