

Court No. 2

01.10.2021

(Sl. 25)

(S. Banerjee/BP)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

FMAT 62 of 2019

Ratna Roy & Ors.

Vs.

The National Insurance Company Ltd. & Anr.

with

CAN 1 of 2019

(Via Video Conference)

Mr. Tamal Kumar Sen

Ms. Priyanka Dey

Mr. Milan Chandra Laskar

... for the petitioners/appellants

Mr. Gobinda Saha

... for the insurance company

Re: CAN 1 of 2019

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

Sufficient grounds are available in the application explaining the delay of 725 days in preferring the appeal.

Hence, the delay is condoned.

The appeal is admitted.

The application, being CAN 1 of 2019, is allowed.

Re: FMAT 62 of 2019

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

Department shall issue a regular MAT number.

This appeal is directed against a judgement and order dated 28th November, 2017 passed by the Motor Accident Claims Tribunal, 1st Court at Jalpaiguri in MAC Case No. 325 of 2014.

The facts of the case are undisputed and already available in the said judgement and hence are not set out afresh hereinbelow.

It appears that there have been some erroneous calculations in the compensation payable to the appellants.

Counsel for the insurance company has, however, opposed the same.

The correct compensation payable to the appellants is set out hereinbelow in terms of the decision of the Hon'ble Supreme Court in the case of *National Insurance Company Limited –Vs- Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680 and *Sarala Verma –Vs.- Delhi Transport Corporation*, reported in (2009) 6 SCC 121:

- | | | | |
|----|--|---|------------|
| 1. | Monthly Income be assessed as Rs. | : | 24,853/- |
| | [25,033-180(P.A. Tax and G.I.)]=24,953 | | |
| 2. | Annual Income be assessed as Rs. | : | 2,98,236/- |
| | (Rs. 24,853/- X 12) | | |
| 3. | Future Prospect be assessed 50% i.e., Rs. | : | 1,49,118/- |
| 4. | Total Income i.e., | : | 4,47,354/- |
| 5. | Deduction 1/3 rd on account of own Personal Living expenses | : | 1,49,118/- |
| | | : | 2,98,236/- |

- | | | |
|----|---|----------------------------------|
| 6. | Use of Multiplier as per age of 16
(2,98,236 X 16) | : 50,70,012/- |
| 7. | General damages as per Pranay
Setthi case is Rs. 70,000/- (Rs.
15,000/- for loss of estate, Rs.
15,000/- for funeral expenses, Rs.
40,000/- for loss of consortium) | : 70,000/- |
| 8. | Total of Rs. | : 51,40,012/- |
| 9. | Less awarded amount | : (-) 33,92,508/-
17,47,504/- |

In view of the above, a sum of Rs. 17,47,504/- shall be payable to the appellants together with interest at the rate of 6.5% per annum from the date of filing of the claim petition, i.e., 18th November, 2014 until the date of actual payment.

Let the aforesaid sum be paid to the appellants in the proportion as directed by the court below and into their respective bank accounts upon particulars of the same being furnished along with PAN and Aadhar number to the insurance company and/or their respective advocate on record.

Let such payment be made within a period of 15 days from the date of receipt of such particulars by the insurance company.

With the directions as above the instant appeal stands disposed of.

(Rajasekhar Mantha, J.)