02.1. 2024
item No.60
n.b.
ct. no. 551

FMAT 614 of 2018
with
IA No. CAN 1 of 2023

Mamtaj Begun & Anr.
Vs.
The National Insurance Co. Ltd.

Mr. Amit Ranjan Roy,
.....for the appellant.
Mr. Sanjay Paul,
Ms. Jaita Ghosh,
.... For the respondent.

In Re. CAN 1 of 2023

This is an application for condonation of delay.

Heard the learned advocate and perused the body of the application being CAN 1 of 2023. Considering the grounds therein, it appears to be sufficient. Accordingly, the delay in preferring the instant appeal is hereby condoned.

Accordingly, CAN 1 of 2023 is disposed of.

The Insurance Company has made his appearance through learned advocate Mr. Paul. The appeal is otherwise ready for hearing. The appeal is taken up for hearing.

In Re. FMAT 614 of 2018

The instant appeal has been preferred against the judgment and award dated February 28, 2017 passed by the learned Tribunal, 5th Court, Howrah, in M.A.C. case

No. 209 of 2011 being an application under Section 166 of the Motor Vehicles Act, 1988.

The brief fact of the case is that the present petitioner being the claimant preferred an application before the learned Tribunal under Section 166 of the Motor Vehicles Act for getting compensation from the Insurance Company on the ground that they are the parents of Sk. Sarafuddin, who died in a road traffic accident due to rash and negligent driving of the driver of the offending vehicle duly insured under the policy of the insurance company. The Insurance Company contested the matter before the learned Tribunal.

After hearing the parties, the learned Tribunal has awarded a sum of Rs.1,00,000/- in favour of the claimants.

Being aggrieved by and dissatisfied with the same award the present appelleal has been preferred by the claimants. The appeal has been preferred only on the ground that the quantum of compensation assessed by the learned Tribunal is erroneous.

Heard the learned advocates and perused the observation of the learned Tribunal, it appears that the learned Tribunal has adopted the notional income of the deceased to be Rs.15,000/- as he was non-earning child. It appears that the claimants have preferred the claim application stating income of the deceased to be Rs.5,000/- per month under the occupation of embroidery business. The application was filed under section 166 of the M.V. Act. The P.W. 1 has deposed regarding the age and income of the deceased. However, the learned Tribunal has adopted notional income of the deceased as per 2nd Schedule of Section 163 of the M.V. Act.

Considering the same, it appears to me erroneous by the tribunal to assess the notional income of Rs.15,000/- per annum. The notional income of the deceased should be adopted to be Rs.3,000/- per month. The deceased within the age of group 15 to 24, so, the applicable multiplier would be 18. The deceased was bachelor, thus, the 50% of yearly incomewould be deducted towards his personal expenses. Claimants are entitled to get future prospect i.e. 40% of the established income of the deceased according to the observation of the **Pranay Shetty**. The claimants are also entitled to get general damages of Rs.30,000/- according to the observation of the Hon'ble Supreme Court passes in **Pranay Shetty**.

Considering the entire aspect, the award passed by the learned Tribunal requires modification. Just and proper compensation is assessed here under.

1. Monthly income	Rs. 3,000/-
2. Annual income (3,000 X12)	Rs.36,000/-
3. Add future prospect(40%)	Rs.14,400
	Rs.50,400
4. Deduction 50%	Rs.25,200/-
	Rs.25,200/-
5. Multiplier 18(25,200 X 18)	Rs.4,53,600/-

6. General Damages	Rs.30,000/-
Total	**Rs.4,83,600/-**

Just the proper compensation comes to Rs.4,83,600/-. The claimants have already received a sum of Rs.1,00,000/-. The balance amount of compensation comes to Rs.3,83,600/-

Insurance Company is directed to pay the above mentioned balance awarded amount to the claimant through the office of Learned Registrar General, High Court, Calcutta along with 6% interest per annum from the date of filing of the claim application i. e. from 17.5.2011 within six weeks from the date of passing of the order.

On such deposit, the office of the learned Registrar General, High Court, Calcutta shall disburse the amount in favour of the claimants vide two equal account payee cheques.

Accordingly, FMAT 614 of 2028 is disposed of.

Connected applications, if any, are also disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)