

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

27 FIRST APPEAL NO. 1764 OF 2015
WITH CA/8077/2015 IN FA/1764/2015

THE RELIANCE GENERAL INSURANCE COMPANY THR ITS
BRANCHMANAGER

VERSUS

EKNATH LAXMAN KAMBLE AND OTHERS

...

Advocate for Appellant : Mr. S. G. Chapalgaonkar
Advocate for Respondents 1 and 2 : Mr. S. S. Thombre
Advocate for Respondent No.3 : Mr. K. G. Salunke

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CORAM : S. V. GANGAPURWALA, J.

DATE : 5th October, 2015

PER COURT :

1. The respondents claimant filed application for compensation on account of death of minor - Samadhan, who died in an accident. The claim petition is partly allowed. The insurance company has filed the present appeal.

2. Mr. Chapalgaonkar, the learned counsel submits that the present appeal is limited to the extent of quantum. The court below has awarded quantum of compensation as if it is a injury claim. The same could not have been a criterion for awarding compensation to the claimants on account of death of

minor. On account of injury, the amount is to be awarded to the said person, however, in respect of the death claim, the same has to be considered qua the claimants before it. According learned counsel, if the amount of Rs.15,000/- per month income is considered and the multiplier is applied, the compensation amount would not have been more than Rs.3,25,000/-. The calculations are wrongly made.

3. Mr. Thombare, the learned counsel for respondents/claimants 1 and 2 supports the order and submits that the Court has rightly considered the criterion while awarding the compensation amount. According to the learned counsel Rs.6 lakhs compensation is awarded, which is modest and reasonable.

4. I have considered the submissions.

5. As per Schedule- II of the Motor Vehicles Act, in case of minor below 15 years age, notional income is considered as Rs.15,000/- per month. Age of the deceased in this case was 8 years. Considering the said notional income and applicable multiplier, the amount would come to Rs.2,25,000/-. The claimants are the

parents of the deceased. They would certainly be entitled for the other non pecuniary damages on account of loss of love and affections, which I would grant Rs.1 lakh each. Towards funeral expenses, they would be entitled to Rs.25,000/- and I would also award Rs.50,000/- towards loss of future prospect and cost of litigation. As such, the claimants would be entitled for Rs.5 lakhs,

6. In the result, I pass following order:

- i. The order passed by the tribunal is modified.
- ii. The claimants would be entitled for compensation of Rs. 5,00,000/- (Rupees five lakhs only) along with interest @ 7% per annum from 10th June,2009 till realization.
- iii. The amount if already paid shall be adjusted as on the date, the same is paid.
- iv. The claimants are entitled to withdraw the amount as per aforesaid order. The balance, if any, be refunded to the insurance company.
- v. The first appeal is accordingly disposed of. No costs.

(S. V. GANGAPURWALA, J.)