

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL (STAMP) NO. 23717 OF 2012

THE RELIANCE GENERAL INSURANCE COMPANY THR MANAGER
VERSUS
JAYASHRI JAYVANT KAKULATE AND ORS

...
Advocate for Appellant : Chapalgaonkar S.G.
Advocate for Respondents : S T Kazi For R/1 To 3 & 5
...

CORAM : S.V.GANGAPURWALA,J.

DATED : 12TH OCTOBER, 2015

ORDER :-

Mr.Chapalgaonkar, learned counsel submits that excess number of passengers were carried in the vehicle which has contributed to the accident. In light of that, insurance company ought to have been exonerated. The learned counsel submits that it was error on the part of the tribunal to hold age of the deceased as 40 years and apply the multiplier of 14 when respondent no.2 is son of the deceased aged 23 years as such deceased cannot be less than 45-50 years. Multiplier cannot exceed 12. The tribunal has applied multiplier of 14. According to the learned counsel even for a person aged 50 years, 30% amount towards future prospects cannot be considered.

2] Mr.Kazi, learned counsel submits that the compensation is not awarded under non-pecuniary heads.

3] I have considered submissions. The appeal is already dismissed against respondent no.6 long back. Respondent no.5 is also deleted.

4] There is no evidence that the claim petitions have been made by the persons more than the capacity of the vehicle. There is no evidence to show that the accident has occurred because of excess passengers travelling in the van.

5] There is no contra evidence produced on record to show that the age of the deceased was much more than what has been considered. The salary of the deceased has been considered as per the salary certificate issued; considering age, future prospects has been rightly considered. Paltry sum has been awarded towards non pecuniary heads.

6] In light of that, the tribunal has awarded modest amount of compensation. First Appeal is dismissed. No costs.

[S.V.GANGAPURWALA,J.]

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