

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

FIRST APPEAL NO. 2209 OF 2014
WITH CA/12361/2014 IN FA/2209/2014 WITH CA/5943/2015 IN
FA/2209/2014

THE NEW INDIA ASSURANCE COMPANY LTD.
VERSUS
GEETA ASHOK WADHVANI AND OTHERS

...
Advocate for Appellant : Kadethankar Ajit B.
Advocate for Respondents : Shaikh Mazhar A Jahagirdar For R/1 to 5
K.N.Shermale, Adv. For R.6 & 7.

...

CORAM : S.V.GANGAPURWALA,J.

DATED : 20TH OCTOBER, 2015

PER COURT :-

The present respondent had filed application for compensation under Section 166 of the Motor Vehicles Act. The said application is partly allowed. The insurance company has assailed the said reference.

2] Mr.Kadethankar, learned counsel for the appellant submits that the appeal is filed on quantum of compensation. According to the learned counsel the Court has taken into consideration the income of the deceased on the higher side without any actual proof of it. The Court has erroneously added 30% hike in future income. The same could not have been added. There is no proof to show that the deceased would have earned 30% more amount subsequently. The Court has also awarded Rs.5 lakhs towards non pecuniary damages which is erroneous and without any basis.

3] The learned counsel for the respondents supports the order.

4] I have considered judgment passed by the tribunal. The tribunal has considered the income tax return filed by the deceased, those are prior to the accident. The gross income of the deceased was Rs.1,72,340/- and the net income was Rs.1,48,720/-. The Court has considered the net income of the deceased and has applied the multiplier of 13 which appears to be legal and proper. As far as future prospects is concerned, the same has been rightly considered. The age of the deceased was 46 years. Applying the principle laid down by the Apex Court in the case of **Rajesh and others V/s Rajbir Singh and others reported in 2013 ACJ 1403.**

5] Towards non pecuniary head also said aspect has been rightly considered. Rs.1 lakh each has been awarded towards loss of love and affection to claimant nos.2 to 5 and for loss of consortium Rs.1 lakh is awarded.

6] Considering above, the Court has properly considered the case and has rightly awarded compensation amount.

7] The learned counsel for the claimant submits that the amount deposited by insurance company be transmitted to the tribunal. In light of that, the amount deposited in this Court be transmitted to the concerned tribunal.

8] First Appeal is dismissed. No costs. Civil Appeal also stands disposed of.

[S.V.GANGAPURWALA,J.]

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