IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE, BENCH AT AURANGABAD

FIRST APPEAL NO. 1260 OF 2015

The Reliance General Insurance Company, Manager, Branch at Hyderabad, Through it's authorized signatory/Manager, Office at Opposite District Court New Building, 2nd Floor, Aurangabad Business Center, Adalat Road, Aurangabad	**APPELLANT**
V E R S U S	
Ayub Khan @ Shakeel S/o. Ibrahim Khan and three others	**RESPONDENTS**

Mr. Mohit Deshmukh, Advocate, holding for
Mr. S.G. Chapalgaonkar, Advocate for the Appellant
Mr. P,.C. Mayure, Advocate for Respondent Nos. 1 to 3

CORAM : A.V. NIRGUDE, J.

DATE : 23rd August, 2016

PER COURT :

1. This Appeal filed by the Insurance Company challenging Judgment and Award dated 4th December, 2014, delivered by the learned Member of Motor Accident Claims Tribunal, Nanded, in M.A.C.T. No. 28 of 2008.

2. Respondents were claimants. The Respondents are grown-up sons and daughter of one Sarwaribegum, who died in a motor accident at the age of 60 years. The Insurance Company opposed the claim. There are several defences, but at the time of recording of evidence they took a different defence, about which there was no mention in written statement. For the first time their witness asserted that the cover-note indicating insurance contract between the Insurance Company and the owner of the vehicle in question was not a genuine document. The witness of the Insurance Company even went on to say that no Insurance policy followed the cover-note, and therefore, the Insurance Company has no concern with the case. The learned Member of the Tribunal rightly rejected this submission. I am also inclined the ignore this aspect of the case because there is no foundation in the written statement. Such defence was not raised at all.

3. The only point that is required to be discussed in the Appeal is the quantum of compensation. As said above, the respondents are grown-up children of deceased Sarwaribegum. Since Sarwaribegum did not have income from any other source, the learned Member of the Tribunal rightly held that Sarwaribegum had notional income of Rs.3,000/- per month. Indeed, the claimants were not financial dependent on their mother. Yet, in my view, they are entitled to compensation.

4. It is required to be assumed that Sarwaribegum had income of Rs.3,000/- per month. Being a widow she would spent $1/3^{rd}$ of her income for herself and would spend remaining income on her family members such as respondents – claimants. Applying the multiplier of nine

provided as per ratio laid down by the Supreme Court in the case of ***Sarla Verma (Smt) and others Versus Delhi Transport Corporation and another (2009) 6 Supreme Court Cases 121***. The pecuniary loss wll come to Rs.2,16,000/-. In addition to this, the respondents – claimants are also entitled to compensation on ground of loss of love and affection of their mother. The learned Member of the Tribunal held that each respondent – claimants would be entitled to Rs.10,000/- each. I am not disturbing this. However, I am inclined to increase the amount of compensation payable to the respondents – claimants for funeral. The learned Member awarded Rs.4,000/- as funeral expenses, but I am inclined to grant Rs.25,000/-. Thus, the compensation should come to Rs.2,71,000/- with interest @9% per annum from the date of application till the amount is realized.

In view of above, First Appeal stands dismissed. No order as to costs.

In view of dismissal of the First Appeal, Civil Application No. 6125 of 2015 stands disposed of.

(A.V. NIRGUDE, J.)

srm/23/8/16