IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3547 OF 2011

ICICI Lombard General Insurance
Company Ltd.
Through its Legal Manager,
Mr. Rahul Sanap,
Age: 26 years, Occ. Service,
R/o. c/o ICICI Lombard General
Insurance Company Ltd.
Alaknanda, 1st Floor, Adalat Road,
Aurangabad. … Appellant

Vs.

1. Smt. Shobha Rajendra Surana,
Age:44 years, Occ: Household,

2. Rajendra @ Rajkumar Manikchand Surana,
Age:49 years, Occ: Vehicle Broker,

3. Kum. Priya Rajendra Surana,
Age: 18 years, Occ: Education,
Respondent Nos. 1 to 3 are
all R/o 782, Surana Building,
Tophkhana, Ahmednagar No. 1 to 3 Orig. Claimants.

4. Girish Ramraj Pal,
Age: 47years, Occ: Business,
R/o Nilkanth Corner, 1st Floor,
Section 2, Sanpada (E)
Navi Mumbai – 05. … Respondents

Mr. S.S. Patil, Advocate for the Appellant.
Mr. R.R. Imape, Advocate for the respondent.

CORAM : P.R. BORA, J.
DATE : 18-10-2016.

ORAL JUDGMENT :

1. In the present appeal only two grounds are pressed by the learned counsel appearing for the appellant-insurance company in challenge to the impugned judgment and award. First is that the

tribunal has erred in applying the multiplier based on the age of the deceased when it ought to have been based on the age of the claimants and the second objection is that while determining the amount of dependancy compensation the tribunal has deducted only 1/3rd amount towards the personal expenses when in the facts of the present case the amount liable to be deducted was 1/2.

2. The learned counsel appearing for the original claimants has resisted submissions made on behalf of the learned counsel appearing for appellant-insurance company. The learned counsel submitted that, in so far as the application of multiplier by the tribunal is concerned, the tribunal has rightly applied the multiplier of 18 based on the age of the deceased. The learned counsel has placed reliance on the judgment of the Hon'ble Apex Court in the case of **Munna Lal Jain and Anr. V/s. Vipin Kumar Sharma and Ors.** reported in **(2015) 6 SCC 347**, in view of the ratio laid down in the said judgment, there appears no substance in the objection raised by the insurance company as about the multiplier. As held by the Hon'ble Apex Court the multiplier based on the age of deceased only will be applicable for determining the amount of compensation.

3. In so far as the second objection raised by the insurance company, the learned counsel appearing for the original claimant was fair enough in submitting that deductions ought to have been 1/2 of the total income towards the personal expenses of

the deceased in determining the amount of compensation. In view of the submissions so made the award needs to be modified to the aforesaid extent.

4. Income of the deceased is held by the tribunal to the tune of Rs. 36,000/- per year. 1/2 of the said amount will go towards personal expenses. The amount of dependancy compensation can be arrived at by applying the multiplier of 18 to the balance sum of Rs. 18,000/- which comes to Rs. 3,24,000/-. The tribunal has awarded further sum of Rs. 10,000/- under the other heads and, thus, the total compensation payable to the applicants comes to Rs. 3,34,000/-. Save and except the decrease in the amount of compensation from Rs. 4,42,000/- to Rs. 3,34,000/-, the other part of the impugned award is maintained as it is.

5. The appeal, thus, stands allowed in the aforesaid terms. The respondent in the present appeal i.e. original claimants are permitted to withdraw the amount as awarded as per the modified award i.e. Rs. 3,34,000/- with interest thereon as awarded by the tribunal and the same shall be paid to the claimants by deducting the amount, if any, already withdrawn by them. The balance amount shall be refunded to the appellant-insurance company.

(P.R. BORA)
JUDGE

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