IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.139 OF 2015
with
FIRST APPEAL NO.2041 OF 2014
FIRST APPEAL NO.2042 OF 2014
FIRST APPEAL NO.2043 OF 2014

United India Insurance Company .. Appellant

Versus

Habiba Begum Yousuf Khan and others .. Respondents

Mr.Swapnil S. Rathi, Advocate for the appellant
Mr. Mohit R. Deshmukh, Advocate for resp.Nos. 1 to 3

CORAM : A.V.NIRGUDE, J
DATED : 01.09.2016

P.C. :-

1. All appeals can be disposed of by this common judgment. Insurance Company is appellant in all four appeals which arose from one accident in which a family of four persons died. The family of four persons which consisted of husband and wife aged about 30 & 27 and their minor children 7 & 2 died in a motor accident. Their next of keen are respondents/claimants. They are husband's parents and minor sisters.

2. They filed claim under Section 163-A of the Motor Vehicle Act, 1988 claiming that deceased Shaukat

and Raziya had income not more than Rs.3,000/- per month. They sought compensation as per the 'structured formula' given in the schedule-II of the said Act. As per formula since the income of Shaukat and Raziya was not above Rs.3,000/- per month, having regard to their ages multiplier are chose. Multiplicand was calculated by reducing 1/3rd amount. As regards the minor children, as per the formula given in the schedule, since the children were non-earning persons, it was assumed that their income was Rs.15,000/- per annum. Again 1/3rd of the amount was reduced to derive multiplicand and the same was multiplied by multiplier prescribed under the schedule. Usual damages such as funeral expenses, loss of estate etc. are also awarded.

3. Learned counsel for the appellants contended that calculation of multiplicand in all four cases was erroneous. According to him respondent/ claimants were not members of immediate family of deceased and therefore their financial dependence on the deceased was less than usual. Claimants have their own income and it cannot be said that they wholly depended on their son and daughter-in-law. So, for the purpose of deriving multiplicand 50% of income should be reduced for the purpose of calculation of compensation. This submission is quite novel but is not acceptable. This is a case filed under

Section 163-A which starts with a non obstantate clause. This clause prevents the Court from taking into account any other formula but the formula provided in schedule-II. Submission at bar would have been permissible if claim was under Section 166 of the Act.

5. The Legislature has taken care not to award exorbitant compensation on the basis of structured formula. Formula is designed in such a manner that the claimants belonging to poorer section of the society would get minimum assured amount as compensation without going into the merits of their case. In the schedule it is clearly mentioned that in any case compensation cannot be less than Rs.50,000/-. This formula prescribed long back in 1994 and so the Legislature might consider its revision. Having regard to the formula adopted by the Lower Court for calculating the compensation amount payable to respondents/ claimants appears correct.

7. I am therefore inclined to not to disturb the same. Appeal should therefore dismissed. The amount lying in the Court shall be handed over to the respondent/ claimant immediately, if any.

[A.V.NIRGUDE,J.]

VishalK/fa139.15
@