IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1811 OF 2009
WITH
CIVIL APPLICATION NO. 4634 OF 2009
AND
CIVIL APPLICATION NO. 1178 OF 2016
IN
FIRST APPEAL NO. 1811 OF 2009

The National Insurance Co. Ltd. … **Appellant**
Versus
Mrs.Jatinder Kaur Makan & Ors. ... **Respondents**

Mr.Sanjay Krishnan h/f. Ms.Harshada Rane for Appellant.
Mr.Rajesh A. More for Respondent Nos.1 & 2.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.
DATE : 19TH OCTOBER, 2016.

P.C. :

1] This appeal is preferred against the judgment and award dated 30th June, 2009 passed by Addl. Member, Motor Accident Claim Tribunal, Pune in MACP No.665 of 2006. The appeal is preferred by the Insurance Company only on the point of quantum of compensation that to on the very limited issue as to the calculation of the gross salary of the deceased. It is submitted that in paragraph no.11, the tribunal has observed that at the time of accident the gross salary of the deceased was Rs.12,000/- per month. However, the tribunal has considered the effect of implementation of the 6th

Pay Commission. As a result of which the salary of the deceased was revised with retrospective effect and it came to Rs.19,483/- in the month of April-2006 i.e. at the time of his death. According to the learned counsel for the appellant as per the law laid down in the case of Smt.Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.[1], the salary of the deceased at the time of his death is required to be considered. However, in this case the tribunal has considered the salary which deceased would have got after the implementation of the 6th Pay Commission.

2] However in my considered opinion, this submission is devoid of merits for the simple reason that the recommendations of the 6th Pay Commission were give retrospective effect and therefore, it has to be held that on the date of the accident the salary of the deceased as recommended by the 6th Pay Commission was implemented came to Rs.19,483/- and therefore, that being the salary of the deceased at the time of accident, no fault can be found in the impugned judgment and award of the trial Court on that count.

3] The learned counsel for the appellant submitted that the tribunal has awarded the interest at the rate of 9% per annum from the date of claim application. It is urged that the prevalent rate of interest at that time was 7.5% per annum.

1 (2009) 6 SCC 121

4] The award is accordingly modified to this limited extent that the interest will be at the rate of 7.5% per annum from the date of application till realization of the amount. Otherwise, all the remaining award as passed by the trial Court is confirmed. After the calculation, the tribunal to return the excess amount, if any, deposited by the appellant-Insurance Company.

5] Appeal is accordingly disposed of.

6] In view of the disposal of the Appeal, Civil Application(s) does not survive and same stands disposed of.

(DR.SHALINI PHANSALKAR-JOSHI, J.)