IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 128 OF 2014
WITH
CIVIL APPLICATION NO. 3425 OF 2012

The New India Assurance Co. Ltd. ... Appellant

vs.

Shri. Ganesh Baburao Shewale and ors. ... Respondents

Mr. D. S. Joshi, Advocate for the appellant.
Mr. Avinash B. Avhad a/w Mr. Mahesh Rawal, Advocate for respondent No.2.

Coram : Smt. R. P. SondurBaldota, J.
Date : 11th March, 2016.

P. C. :

1. The parties were put to notice that this first appeal may be disposed off finally at the stage of admission. Accordingly, the appellant has filed private paper-book. Heard the advocates.

2. By this appeal the Insurance Company challenges the judgment and award dated 7th February, 2012 passed by the Motor Accident Claims Tribunal, Pune ('MACT', for short) awarding compensation to the respondents in the sum of Rs.11,18,650/- with interest at the rate of 7% p.a. from the date of the petition till

its realization. Mr. Joshi, the learned advocate for appellant states that the challenge to the award by the appellant is restricted to the quantum of compensation awarded by the Tribunal. The deceased was working as a Front Office Executive with a Company by name "Elixir Training Service Pvt. Ltd." since 2004. She met with an accident on 18th November, 2007 in which a Tanker gave dash to the motorcycle of which she was a pillion rider. The deceased fell down and came under the wheel of the truck and died on the spot. Respondent No.3 is the owner of the Tanker and the appellant is the insurer of the Tanker. Mr. Joshi, the learned advocate for the appellant submits that the evidence as regards the income of the deceased brought on record by the claimants is not proper and sufficient. It was the case of the claimants that the deceased was getting salary of Rs.15,000/-. The claimants produced the salary slip showing the salary of Rs.15,000/-. The claimants also examined the employer (PW-2), who confirmed the salary of Rs.15,000/- paid to the deceased. His evidence as regards the monthly salary of the deceased is sustained in the cross-examination. Mr. Joshi however argues that the employer has admitted in his evidence that the salary slip did not mention the statutory deductions of professional tax and also the income tax. The learned Presiding Officer of the Tribunal has considered these aspects at paras 13 and 14 of the impugned order wherein he has, for arriving at the income of the deceased given deduction to the professional tax of Rs.200/- and deduction at the rate of 10% towards income tax. With these deductions he has accepted the annual income of the deceased as of Rs.1,70,100/-. Thereafter, he has deducted 50% of the amount for the personal expenses of the deceased and arrived at the multiplicand of Rs.85,050/-. By adopting the multiplier of 15 relevant for the age of the deceased the compensation payable to the deceased is calculated as Rs.11,18,650/-. In my opinion, there is no infirmity, whatsoever, in the view taken by the Tribunal and the compensation awarded. The salary paid to the deceased stands established by the deposition of the employer, therefore, any shortcomings in the salary-slip of the deceased needs to be ignored. Further, the objections regarding non-deduction of the professional tax and income tax have been taken care of by the Tribunal. Hence, there is no merit in the challenge to the impugned award. The First Appeal is dismissed.

3. In view of the dismissal of the appeal, Civil Application No.3425 of 2012 does not survive. The same is accordingly disposed off.

[Smt. R. P. SondurBaldota, J.]