

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1300 2015

Harpreetkaur Charanjitsingh Saini
and Others

... Appellants

vs.

Anwar Basha @ Badsha Abdul Rashid
and Another

... Respondents

Mr. Devendra Joshi, for the Appellant.
Ms. Varsha Chavan, for Respondent No. 2.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **13th JANUARY, 2016**

P.C.:

. Admit. The matter decided finally at the stage of admission, by consent.

2. This Appeal is directed against the judgment award dated 24th July, 2015 passed by the Member, M.A.C.T., Mumbai thereby granting compensation of Rs. 27,85,096/- to the original claimants along with the interest @ 7.5% p.a. The Appeal is moved on the ground of enhancement of compensation. As per the submissions of

learned counsel for the Appellant, the enhancement is mainly on the two points i.e. claim of future prospect is erroneously rejected by the Tribunal and the rate of interest is less and not consistent as per the law laid down by the High Court and the Apex Court.

3. The learned counsel for the Respondent-Insurance company while opposing this Appeal has submitted that the Tribunal has considered the issue of future prospect and has rejected the same. She pointed out the evidence of the witnesses. So also the admission given in the cross examination by the witness AW. 2 Anish Korde who is examined by the Applicants as a representative of the company where the deceased was employed. She submitted that the company has power to terminate the employee as per the terms of the contract. So also the salary which is considered as Rs. 34,168/- cannot be considered as actual salary for the purpose of future prospect. She submitted that the amounts received under the performance of employee, performance incentives and ex-gratia bonus are to be deducted while calculating the actual salary. So also the income tax is to be deducted. On the point of interest, the learned counsel for the Appellant relied on the judgment of Division Bench of this Court in

the case of *“The New India Assurance Company Limited vs. Smt. Rajni Harshwardhan Sharma and Others in First Appeal No. 445 of 2015 decided on 11th August, 2015* wherein the rate of interest awarded by the Tribunal was increased upto 9% p.a.

4. At the time of hearing of the Appeal, after going through the judgment and award, it is found that the Tribunal has not discussed and gave proper reasoning about the multiplier and also about the deduction. It appears that the calculation of the amount of compensation is wrong and is to be corrected. Hence, the matter is remanded to the M.A.C.T., Mumbai for proper multiplier and deduction and to give correct finding on the future prospects. Considering the submissions of the learned counsel for the Appellant, it is necessary to add the future prospect as per the ratio laid down in the case of *“Sarla Verma and Ors. vs. Delhi Transport Corp & Anr. S.C. Civil Appeal No. 3483 of 2008 decided on 15th April, 2009.”*

5. The Registry is directed to send back the matter to the M.A.C.T., Mumbai on or before 27th January, 2016. The parties to appear before the Tribunal on 8th February, 2016.

6. The Tribunal to decide the matter on or before 26th February, 2016.

7. Accordingly, First Appeal stands disposed of.

(MRS.MRIDULA BHATKAR, J.)