

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 2538 OF 2016

NEW INDIA ASSURANCE CO. LTD. THROUGH BRANCH
MANAGER SHRIRAMPUR, DIST AHMEDNAGAR
VERSUS
RADHA YOGESH GAME AND OTHERS

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Advocate for Appellant : Mr Chapalgaonkar S.G.
Advocate for Respondents : Mr Shaikh M.A.Jahagirdar

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CORAM : V.K. JADHAV, J.

Dated: May 02, 2017

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PER COURT :-

1. Heard finally with consent at admission stage.
2. Being aggrieved by the judgment and Award passed by the Member, Motor accident Claims Tribunal, Shrirampur, dated 19.3.2015 in MACP No.155/2014, the original respondent no.2 Insurer has preferred this appeal.
3. The learned counsel for the appellant-insurer submits that, so far as point of false involvement of the vehicle involved in the accident and the income of the deceased as considered by the Tribunal are concerned,

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the appellant-insurer is not going to press the said points. Learned counsel for the appellant-insurer submits that deceased Dr. Yogesh Game was 34 years of age at the time of his accidental death, however, the Tribunal has erroneously considered his age as 30 years and accordingly applied the multiplier '17' instead of '16'. Learned counsel submits that compensation awarded by the Tribunal is required to be re-determined to that extent only.

4. Learned counsel for the respondents-claimants has not disputed this position.

5. In view of the above submissions, the relevant multiplier would be '**16**' instead of '**17**' and as such, compensation awarded by the Tribunal required to be re-determined in the following manner :-

6. Annual income of deceased is Rs.1,75,425 x 16 = 28,06,800/-. Thus, the claimants are entitled to Rs.28,06,800/- towards loss of future

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income/dependency. 50% addition towards future prospectus comes to Rs.14,03,400/- $(28,06,800+14,03,400) = 42,10,200/-$ and compensation under non-pecuniary heads as granted by the Tribunal is Rs.3,00,000/-. Therefore, total compensation comes to Rs. $(42,10,200 + 3,00,000)=Rs.45,10,200/-$. Thus, the claimants are entitled to Rs.45,10,200/-.

7. The learned Member of the Tribunal has awarded the compensation under other heads, which is not disputed by the parties. Except above modification, rest of the award stands confirmed. The claimants are entitled for the total compensation of Rs.45,10,200/-. Hence, following order.

O R D E R

- i]. First Appeal is hereby partly allowed. No costs.
- ii]. The judgment and award passed by the Member, Motor Accident Claims Tribunal, Shrirampur, dated 19.03.2015 in M.A.C.P.No.155/2014 is hereby modified in the following manner :-

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a] Respondents no.1 and 2 jointly and severally shall pay the compensation amount of Rs.45,10,200/- (Rs. Forty Five lacs Ten Thousand Two hundred only) (inclusive of No Fault Liability Amount of Rs.50,000/-) to the petitioner nos. 1 to 4 alongwith interest @ 9% p.a. from the date of institution of the petition till its full realization.

Iii]. Rest of the award stands confirmed.

Iv]. Award be drawn up as per the above modifications.

V]. Needless to say that, if, the amount is deposited as per the award passed by the Tribunal, the amount in excess, if any, alongwith accrued interest to that extent, shall be refunded to the appellant-insurer and rest of the amount as per the modified award alongwith accrued interest shall be paid to the respondents- claimants.

Vi]. Appeal is accordingly disposed of.

Vii]. Pending civil application, if any, also stands disposed of.

(V.K. JADHAV, J.)

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