

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 641 OF 2017
WITH CA/15413/2016 IN FA/641/2017

M/S. SHRIRAM GENERAL INSURANCE CO. LTD.
VERSUS
RENUKA SOPAN DANGE AND ORS

...
Advocate for Appellant : Mr. Chapalgaonkar S.G.
Advocate for Respondent No.1 : Mr. R.V. Gore
.....

CORAM : V. K. JADHAV, J.
DATED : 20th JULY, 2017

PER COURT:-

1. By consent of learned counsel for the respective parties, heard finally at admission stage.
2. Being aggrieved by the judgment and award dated 22.2.2016 passed by the learned Member M.A.C.T. Aurangabad in M.A.C.P. No. No.730 of 2013, the original respondent No.3 insurer has preferred this appeal to the extent of quantum of compensation as awarded by the Tribunal.
3. Learned counsel for the appellant/insurer submits that though deceased Sopan was doing the labour work, the Tribunal has considered his notional income at Rs.8000/- p.m.. Though the appellants claimants have not adduced any documentary evidence to

substantiate their contentions about the income of deceased, the Tribunal has accepted the bare words of the claimants and by making addition in the income of deceased towards future prospects, awarded huge and exorbitant amount of compensation. Learned counsel submits that though the tribunal has awarded Rs.1,00,000/- to respondent claimant No.1 (wife) under the head of loss of consortium, again awarded her the amount under the head of loss of love and affection.

4. Learned counsel for the respondents/original claimants submits that the Tribunal has correctly considered the income of deceased at Rs.8000/- p.m. Deceased Sopan was 32 years of age at the time of his accidental death. Learned Member of the Tribunal has therefore, rightly made the addition in the income of deceased to the extent of 50% towards future prospects. The Tribunal has awarded just and reasonable compensation under all heads, including non pecuniary heads. No interference is required. There is no substance in the appeal and the appeal is thus liable to be dismissed.

5. On perusal of pleadings, evidence and the judgment and award passed by the Tribunal, it appears that the deceased Sopan was doing the labour work and he was not even skilled labour. It

appears that the Tribunal has considered the income of deceased Sopan on higher side. Further in absence of any positive evidence, the Tribunal has made addition in the income of deceased to the extent of 50% towards future prospects. However, considering the age of deceased certain addition in the income is required to be considered towards future prospects. In the given set of facts, it would be just and appropriate if the income of deceased Sopan is considered at Rs.6,000/- p.m. including the future prospects.

6. So far as the compensation awarded under non pecuniary heads are concerned, though the Tribunal has awarded compensation of Rs.1,00,000/- to respondent claimant No.1 (wife) for loss of consortium, the Tribunal again awarded Rs.1,00,000/- under the head of love and affection alongwith the minor child. The respondent claimant No.1 is not entitled for the said amount since the amount awarded under the head of loss of consortium includes loss of love and affection on account of untimely death of her husband.

7. In view of above, the compensation, as awarded by the Tribunal, requires redetermination. Thus, the break up of compensation under the different heads awardable to the claimants which can be broadly categorized is as under:-

I)	Loss of future income/dependency (Rs.48,000x16) (As against Rs.15,36,000/- as awarded by the Tribunal)	Rs. 7,68,000.00
II)	Loss of consortium to claimant No.1 (As awarded by the Tribunal)	Rs. 1,00,000.00
III)	Loss of estate (As awarded by the Tribunal)	Rs. 1,00,000.00
IV)	Loss of love and affection to to claimant No.1 (As against Rs.2,00,000/- awarded by the Tribunal)	Rs. 1,00,000.00
IV)	Loss of love and affection to to claimant No.3 (As against Rs.2,00,000/- awarded by the Tribunal)	Rs. 50,000.00
Total		Rs.11,18,000.00

8. Thus, the claimants are entitled for total compensation of Rs.11,18,000/- (Rupees Eleven lacs eighteen thousand). Hence, I proceed to pass the following order:-

O R D E R

- I. The appeal is hereby allowed. No costs.
- II. The judgment and award dated 22.02.2016, passed by the learned Member, M.A.C.T. Aurangabad, in M.A.C.P. No. 730 of 2013 is hereby modified in the following manner:-

“The claimants Nos. 1 to 3 are entitled to get Rs.11,18,000/- (Rupees Eleven lacs eighteen thousand) including NFL amount of Rs.50,000/- as compensation and respondent Nos. 1 to 3 jointly and severally do pay the said amount of Rs.11,18,000/- with future interest @ 9% p.a. from the date of filing of petition i.e. 17.10.2013 till realization of entire amount.”

III. Rest of the judgment and award stands confirmed.

IV. The award be drawn up as per the above modification.

V. If any amount is paid as per the judgment and award passed by the Tribunal, the same shall be the part of award after modification. If the appellant insurer deposited entire amount before this court, the appellant insurer is entitled for refund of amount as per the modified award.

VI. The appeal is accordingly disposed of.

9. Pending civil application is disposed of.

(V. K. JADHAV, J.)

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