

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 40 OF 2017
WITH
CIVIL APPLICATION NO. 150 OF 2017

M/S. NATINAL INSURANCE COMPANY LIMITED
VERSUS
LATA W/O SATISH MAHAJAN

...
Advocate for the appellant: Mr. V.N. Upadhye
Advocate for respondent: Mr. G. B. Kulkarni
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CORAM : V. K. JADHAV, J.
DATED : 16th JANUARY, 2017

PER COURT:-

1. Being aggrieved by the judgment and award passed by the Member, M.A.C.T. Jalgaon dated 8.8.2016 in M.A.C.P. No. 54 of 2013, the respondent insurer has preferred this appeal.

2. Deceased Ashish met with an accidental death on 25.12.2012. At the time of accidental death, he was 23 years of age studying in 3rd year of Engineering. The learned Member of the Tribunal has recorded the finding to the effect that the claimant has proved that on 25.12.2012 at about 1.30 to 2.00 a.m. on Jalgaon - Paldi road, deceased Ashish while riding motor cycle met with accidental death and driver of the car bearing registration No. MH-19-AP-6633 is responsible for his death, as he had driven the said car in rash and negligent manner. The learned Member of the Tribunal has allowed

the claim petition and thereby directed the respondent owner and the present appellant to jointly and severally pay compensation of Rs.27,36,000/- with interest at the rate of 7.5% from the date of application till realization of amount. Being aggrieved by the same, the respondent insurer has preferred the present appeal to the extent of quantum.

3. During pendency of this first appeal, the matter is amicably settled between the appellant insurer and the respondent claimant and the respondent claimant has filed her affidavit accepting the amount of Rs.15,14,000/- including no fault liability, costs alongwith interest at the rate of 7.5% p.a. from the date of petition till realization towards full and final settlement of compensation.

4. Learned counsel appearing of the appellant Insurer submits that Mr. Dhirendrakumar Mishra, an Administrative Officer of the appellant- Insurance company is present in the Court and he accepts the rate of interest as a special case, if granted at the rate of 9% p.a. from the date of application till realization of entire amount.

5. In view of the above, the following order is passed:-

O R D E R

- I. The Judgment and award passed by the learned Member M.A.C.T. Jalgaon dated 8.8.2016 in M.A.C.P. No. 54 of 2013 is modified in view of the settlement arrived at between the parties in the following manner:-

“The respondent Nos. 1 and 2 shall jointly and severally pay the compensation of Rs.15,14,000/- (Rupees Fifteen lacs fourteen thousand only) including the amount of compensation under 'no fault liability' with interest at the rate of 9% p.a. from the date of application till realization.

- II. The award be drawn up accordingly.

- III. Appeal is accordingly disposed of.

6. Pending civil application is disposed of.

(V. K. JADHAV, J.)

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