IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1559 OF 2016
WITH
CIVIL APPLICATION NO. 171 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Ganpat B. Golambade and anr. .. Respondents

AND

FIRST APPEAL NO. 1566 OF 2016
WITH
CIVIL APPLICATION NO. 158 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Jitendra B. Golambade and anr. .. Respondents

AND

FIRST APPEAL NO. 1561 OF 2016
WITH
CIVIL APPLICATION NO. 160 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Jitendra B. Golambade and anr. .. Respondents

AND

FIRST APPEAL NO. 1564 OF 2016
WITH
CIVIL APPLICATION NO. 169 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Pradeep J. Golambade and anr. .. Respondents

AND

FIRST APPEAL NO. 1572 OF 2016
WITH
CIVIL APPLICATION NO.172 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Tukaram B. Golambade and anr. .. Respondents

AND

FIRST APPEAL NO. 1562 OF 2016
WITH
CIVIL APPLICATION NO. 159 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Seema C. Golambade and ors .. Respondents

AND

FIRST APPEAL NO. 1567 OF 2016
WITH
CIVIL APPLICATION NO. 168 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Smt. Aruna S. Golambade and ors. .. Respondents

AND

FIRST APPEAL NO. 1568 OF 2016
WITH
CIVIL APPLICATION NO.167 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Sevanti T. Ghadavle and ors. .. Respondents

AND

FIRST APPEAL NO. 1560 OF 2016
WITH
CIVIL APPLICATION NO. 165 OF 2017

National Insurance Company Ltd. .. Appellant
vs.
Smt. Suman A. Golambade and ors. .. Respondents

AND
FIRST APPEAL NO. 1571OF 2016

National Insurance Company Ltd. .. Appellant
vs.
Sachin L. Gaurat and anr. .. Respondents

Mr. Mehta i/b KMC Legal for the Appellant-Insurance Company in all the appeals.
Mr. Bharat Gadhavi h/f. Mr. Surendra V. Sonawane for Respondents-Claimants in all the appeal, except FA No. 1571 of 2016.

CORAM : M. S. SONAK, *J.*
Date of Reserving the Order : 24 JANUARY 2017
Date of Pronouncing the Order : 30 JANUARY 2017.

ORDER :-

1] Heard Mr. Mehta, learned counsel for the appellant-insurance company, in all the appeals and Mr. Bharat Gadhavi, learned counsel for the respondent-claimants in all the appeals, except First Appeal No. 1571 of 2016.

2] With the consent of and at the request of learned counsel for the parties, the appeals are taken up for final disposal. Further, learned counsel for the parties agree that the impugned judgments and awards, in each of these appeals, relate to one and the same accident which took place on 23 August 2006 at Mangaon, Raigad. Therefore, learned counsel for the parties agree that these appeals can be disposed of by common judgment and order, since most of the issues are common.

3] On 23 August 2006 at about 9.15 p.m., there was a collusion between tourist vehicle, i.e., Tata Sumo bearing registration No. MH-06-J-4795 and a motor tempo bearing registration No.GA-01-W-5904 at Mangaon, Raigad resulting in death of some passengers and injuries to others. The dependents of the demised passengers as well as passengers, who suffered injuries and permanent disablement, instituted separate claim petitions before the Motor Accident Claims Tribunal (MACT), Mumbai. These claim petitions have been disposed of by the impugned judgments and awards made by the MACT, Mumbai. The appellant-insurance company, aggrieved by the impugned judgments and awards, have instituted these appeals, which are now taken up for final disposal.

4] Mr. Mehta, learned counsel for the appellant-insurance company has raised the following grounds, which are common to each of the appeals:

(a) That the accident which took place on 23 August 2006 was a result of direct collision between the tourist vehicle and the motor tempo. Only tourist vehicle was insured with the appellant-insurance company. Since this was a case of head on collision, it was necessary that negligence was apportioned to the extent of at least 50% upon the driver and owner of the motor tempo. If it is held that the motor tempo contributed to the negligence, then, the liability of the appellant will stand reduced to the extent of 50%. The MACT has erred in ignoring the contributory negligence involved; and

(b) The insurance policy in the present case had a condition that the tourist vehicle could carry not more than five passengers. In this case, however, there is ample evidence on record which establishes that the tourist vehicle, at the time of accident, was carrying 11 passengers. In fact, issue No.2 framed by the MACT in this regard, has been answered in favour of the appellant - insurance company. The MACT has in fact held that the insured had committed a breach of terms and conditions of the insurance policy. Despite of this, the MACT has grossly erred in holding the appellant-insurance company liable to pay compensation. Mr. Mehta submits that this is an error apparent on the face of record.

5] Mr. Mehta has raised further grounds, which are peculiar to each of the appeals and therefore, they are discussed separately.

6] On the aspect of contributory negligence, there is evidence on record which establishes that the tourist vehicle, at the time when it collided with motor tempo, was being driven at high speed, rashly and negligently. When the tourist vehicle reached Mangaon, the driver of the vehicle lost control, due to which it swerved to the right side and to the opposite line of the road and dashed against motor tempo coming from opposite direction. In this case, the documentary evidence establishes that the charge-sheet bearing No.1078 of 2008 was filed only against the driver of the tourist vehicle alleging commission of offence under sections 304-A, 279, 337, 338 of IPC read with section 184 of the M.V. Act 1988. In the charge-sheet also it is alleged that the driver of the tourist vehicle drove the said vehicle in a rash and negligent manner, in high speed and went on wrong side of the road, as a result of which the collision took place. Thus, the oral as well as documentary evidence on record clearly establishes that the accident was a result of rash and negligent driving by the driver of the tourist vehicle. In such a situation, there arises no question of any contributory negligence on the part of the driver of the motor tempo. Further, in this case the appellant-insurance company had led no evidence. The owner and the driver of the tourist vehicle, though parties, led no evidence. If the appellant was indeed serious about rebutting the onus very well discharged by the claimants, it was necessary that the appellant leads some evidence to establish that the driver of the motor tempo also contributed to the negligence in this matter. In absence of any such evidence, the first contention of Mr.Mehta based upon the doctrine of contributory negligence cannot be accepted.

7] The MACT upon detailed analysis of the material on record and after taking into consideration the law laid down by this court in ***Oriental Insurance Co Ltd. V. Sangita D. Jamdade – 2005 (1) TAC 233*** as also the decisions rendered by the Madhya Pradesh High Court and the Karnataka High Court, has rightly held that contributory negligence on the part of the driver of the motor tempo cannot be said to have been established. Accordingly, the first contention of Mr.Mehta is hereby rejected.

8] Mr. Mehta is right in his submission that the material on record establishes that there was breach of terms and conditions of the insurance policy, since, the tourist vehicle, at the time of accident, was carrying 11 passengers, as against the permitted number of five passengers. In fact, the MACT in the impugned judgments and awards have answered the issue No.2 in favour of the appellant-insurance company. However, the impugned judgments and awards are entirely consistent with the law laid down by the Hon'ble Supreme Court in ***United India Insurance Company Ltd. v. K.M. Poonam – (2015) 15 SCC 297*** and therefore, there is no case made out to interfere with the impugned judgments and awards on the second ground raised by Mr. Mehta in support of these appeals.

9] In *K.M. Poonam (supra),* the insurance policy had covered six occupants of the vehicle in question, including the driver. The liability of the insurance company was therefore, confined to such six persons. However, the Hon'ble Supreme Court has held that the excess number of persons would have to be treated as third parties and the insurance company will have to satisfy the awards for compensation in respect of such excess persons, in the first instance. Further, since there can be no pick and choose method to identify the excess passengers in respect of whom compensation will be payable by the insurance company, to meet the ends of justice, the insurance company should deposit the total amount of compensation awarded to all the claimants and amount so deposited be disbursed to the claimants in respect their claims, with liberty to the insurance company to recover the amounts paid by it over and above the compensation amount payable in respect of the persons covered by the insurance policy from the owner of the vehicle by putting the decree into execution. For such purpose, the total amount of six awards , which are higher shall be construed as the liability of the insurance company. The insurance company need not even file a separate suit in this regard in order to recover the amounts paid in excess of its liability from the owner of the vehicle.

10] The relevant observations in K.*M. Poonam (supra)*, are found in paragraphs 37 to 40, which read thus:

> *37. In the instant case, any of the persons travelling in the vehicle in excess of the permitted number of six passengers, though entitled to be compensated by the owner of the vehicle, would still be entitled to receive the compensation amount from the insurer, who could then recover it from the insured owner of the vehicle. As mentioned hereinbefore, in the instant case, the insurance policy taken out by the owner of the vehicle was in respect of six passengers, including the driver, travelling in the vehicle in question. The liability for payment of the other passengers in excess of six passengers would be that of the owner of the vehicle who would be required to compensate the injured or the family of the deceased to the extent of compensation awarded by the Tribunal.*
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> *38. Having arrived at the conclusion that the liability of the Insurance Company to pay compensation was limited to six persons travelling inside the vehicle only and that the liability to pay the others was that of the owner, we, in this case, are faced with the same problem as had surfaced in Anjana Shyam's case.*
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> *39. The number of persons to be compensated being in excess of the number of persons who could validly be carried in the vehicle, the question which arises is one of apportionment of the amounts to be paid. Since there can be no pick and choose method to identify the five passengers, excluding the driver, in respect of whom compensation would be payable by the Insurance Company, to meet the ends of justice we may apply the procedure adopted in Baljit Kaur's case and direct that the*

> *Insurance Company should deposit the total amount of compensation awarded to all the claimants and the amounts so deposited be disbursed to the claimants in respect to their claims, with liberty to the Insurance Company to recover the amounts paid by it over and above the compensation amounts payable in respect of the persons covered by the insurance policy from the owner of the vehicle, as was directed in Baljit Kaur's case.*
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> 40. *In other words, the appellant Insurance Company shall deposit with the Tribunal the total amount of the amounts awarded in favour of the awardees within two months from the date of this order and the same is to be utilized to satisfy the claims of those claimants not covered by the insurance policy along with the persons so covered. The Insurance Company will be entitled to recover the amounts paid by it, in excess of its liability, from the owner of the vehicle, by putting the decree into execution. For the aforesaid purpose, the total amount of the six Awards which are the highest shall be construed as the liability of the Insurance Company. After deducting the said amount from the total amount of all the awards deposited in terms of this order, the Insurance Company will be entitled to recover the balance amount from the owner of the vehicle as if it is an amount decreed by the Tribunal in favour of the Insurance Company. The Insurance Company will not be required to file a separate suit in this regard in order to recover the amounts paid in excess of its liability from the owner of the vehicle."*

11] Now in the present case, the material on record does establish that under the insurance policy the tourist vehicle was authorised to carry only five passengers. However, in the tourist vehicle 11 passengers were found to be travelling at the time of accident. This may constitute breach of the terms and conditions of the insurance policy. However, the appellant – insurance company cannot avoid liability to honour the impugned judgments and awards in the first instance, though, it shall have liberty to recover the amounts from the owner of the tourist vehicle in accordance with principles set out by the Hon'ble Supreme Court in *K.M. Poonam (supra)*. The MACT, in the present case, has correctly appreciated this legal position and made the following direction in the impugned judgments and awards:

> *"5. The Insurer is directed to pay the amount awarded to the applicant in sequence of the highest five awards in descending order and also the amount under other remaining awards and recover the excess amount under the other awards from the Opp. Party."*

12] Accordingly, there is no case made out to interfere with the impugned judgements and awards on the basis of second ground urged by Mr. Mehta in these appeals.

13] In First Appeal No. 1559 of 2016, Mr. Mehta, in addition to common grounds, submitted that the MACT has erred in accepting that the claimant had sustained permanent partial disability to the extent of 42% and further, there was no material on record to assume that the income of the claimant was Rs.3000/- per month. On this ground, Mr. Mehta submitted that the quantum of compensation is excessive and some deductions are to be made in order.

14] The MACT has considered the issue of quantum of compensation in paragraphs 14 to 18 of the impugned judgment and award. The findings recorded therein are sustainable, on the basis of material on record. The claimant has examined Dr. Naresh Khanna as AW-2, who has deposed that the claimant indeed suffered 42% permanent partial disability as indicated by him in the disability certificate. In absence of any contrary evidence produced by the appellant, the MACT was justified in accepting that the claimant has indeed suffered from 42% permanent partial disability. On the aspect of income, the MACT has taken into consideration the notional income at Rs.3000/- per month and on the said basis awarded the claimant an amount of Rs.9000/- towards loss of wages for three months. This is absolutely reasonable and warrants no interference. Accordingly, First Appeal No. 1559 of 2016 is liable to be dismissed and the same is hereby dismissed.

15] In First Appeal No. 1566 of 2016, Mr. Mehta, in addition to common grounds, submitted that the findings of disability to the extent of 51% is unsupported by evidence and there is no material to sustain the finding that the claimant was earning Rs.3000/- per month by way of wages.

16] In this case also Dr. Khanna, who has issued disability certificate has been examined as AW-2. The impugned award in this appeal is virtually identical to the award impugned in First Appeal No. 1559 of 2016, except that in the said award, the disability percentage of the claimant is 42% and the award impugned in this appeal, the percentage of disability is 51%. Therefore, for the reasons recorded in the context of First Appeal No. 1559 of 2016, First Appeal No. 1566 of 2016 is liable to be dismissed and is hereby dismissed.

17] In First Appeal No. 1564 of 2016, Mr. Mehta, in addition to common grounds, submitted that the findings of disability to the extent of 49% is unsupported by evidence and there is no material to sustain the finding that the claimant was earning Rs.3000/- per month by way of wages.

18] In this case also Dr. Khanna, who has issued disability certificate has been examined as AW-2. The impugned award in this appeal is virtually identical to the award impugned in First Appeal No. 1559 of 2016, except that in the said award, the disability percentage of the claimant is 42% and the award impugned in this appeal, the percentage of disability is 49%. Therefore, for the reasons recorded in the context of First Appeal No. 1559 of 2016, First Appeal No. 1564 of 2016 is liable to be dismissed and is hereby dismissed.

19] In First Appeal No. 1572 of 2016, Mr. Mehta, in addition to the common grounds, submitted that there was no basis to hold that the claimants had sustained permanent partial disability to the extent of 49% or that the claimant was drawing salary of Rs.6,500/- per month.

20] In this case also, the claimant has examined Dr. Naresh Khanna as AW-2, who has clearly deposed that the claimant had suffered from permanent partial disability to the extent of 49% as recorded in the disability certificate issued by him. In absence of any contrary evidence on the part of the appellant, the MACT was quite justified in accepting this position. On the aspect of salary, in this case, the claimant has examined one Suresh Shah who was his employer. Therefore, it cannot be said that the findings recorded by the MACT are contrary to the weight of the evidence on record. First

Appeal No. 1572 of 2016 is therefore, liable to be dismissed and is hereby dismissed.

21] In First Appeal No. 1571 of 2016, Mr. Mehta, in addition to common grounds, submitted that there was no evidence on record to sustain the findings that the claimant has sustained permanent partial disability to the extent of 50%. further, that his monthly income was Rs.4,500/- per month.

22] Here again, the claimant has produced on record the original disability certificate issued by All India Institute of Physical Medicines and Rehabilitation Centre, Mumbai (Exhibit-19), which clearly indicates that the claimant had sustained 81% permanent physical impairment. Besides, there is evidence on record which establishes that the claimant was unable to do any work or walk without support. There is evidence on record that the claimant was employed as a cleaner or loader and on account of disability, had to discontinue such service. The claimant had examined one David Pawar as AW-2, who deposed that the claimant used to work with him for loading and unloading works and also as a cleaner on monthly salary of Rs.4500/- with Bhatta of Rs.1000/- per month. The testimony of Mr. Pawar has withstood the challenge of cross-examination. Despite of this evidence, the MACT has regarded the disability that only 50% for purpose of calculation of future loss of income. Further, even the income is taken as Rs.4500/- per month. Even though, Mr. David Pawar has deposed about the salary of Rs.4500/- with Bhatta of Rs.1000/- per month. The determination of compensation is upon conservative basis and there is really no reason to interfere with the impugned judgment and order. In this case, as well, the appellant-insurance company led no evidence in the matter. Accordingly, First Appeal No. 1571 of 2016 is liable to be dismissed and the same is hereby dismissed.

23] In First Appeal Nos. 1560, 1561, 1562, 1567 and 1568 of 2016, Mr. Mehta, in addition to common grounds, submitted that there is absolutely no evidence on record to establish the monthly income of the deceased passengers. In fact, the impugned judgments and awards acknowledge this fact. However, the MACT, only on the basis that the deceased passengers were alleged to be employed in the city of Mumbai has taken notional income at Rs.4500/- per month. Mr. Mehta submits that this is an error apparent on the face of record and the findings as to notional income is a perverse finding based upon no material on record. Without prejudice, he submits that in absence of evidence, the notional income could have been taken at Rs.3000/- per month, but not Rs.4500/- per month. Mr.Mehta also submits that in absence of any evidence as to employment or in come, there was no question of making any award towards future prospects. On this ground, Mr.Mehta submitted that appropriate deductions are due from the impugned judgments and award and to that extent, these appeals are liable to be allowed.

24] In aforesaid appeals, the claimants are dependents of the passengers, who died in the accident which took place on 23 August 2006. The dependents, in most cases are the widows, minor children and aged parents. In First Appeal No. 1562 of 2016, the age of deceased passenger was 30 years, in First Appeal No. 1567 of 2016, the age of deceased passenger was 32 years, in First Appeal No. 1568 of 2016, the age of deceased passenger was 42 years, in First Appeal No. 1560 of 2016, the age of deceased passenger was 40 years and in First Appeal No.1561 of 2016, the age of deceased passenger was 20 years, at the time of unfortunate accident. In each of these cases, the claimants have deposed that the deceased passengers were employed in various locations at Mumbai and were drawing monthly salary in excess of Rs.4500/-. It is true that in none of these cases, the employers have been examined or for that matter any employment letters have been produced on record. However, it cannot be said that this is the case of no evidence, particularly since the claimants have stepped in the witness box and have deposed to the amount of salary/wages earned by the deceased passengers. Besides, the inferences drawn by the MACT to the effect that the notional income of the deceased passengers was Rs.4500/- per month can be said to be neither excessive nor unreasonable in the peculiar facts and circumstances of the present case. The deceased passengers were aged 20 to 42 years. They were employed in the city of Mumbai. Some of them were said to be skilled employees. In such a situation even under the Minimum Wages Act, it can be presumed that they would be drawing monthly income of about Rs.4500/- per month. Accordingly, it cannot be said that the finding as to monthly income is vitiated by perversity or is a finding which is totally unsupported by the material on record. Taking into consideration the totality of the circumstances, including in particular the age of deceased passengers and the fact that they were employed in a city like Mumbai, there is really no reason to interfere with the findings of fact as recorded by the MACT.

25] In ***Dr.K.G. Poovaiah vs. General Manager/Managing Director Karnataka State Road Transport Corporation – (2001) 9 SCC 167,*** in respect of an accident which took place in the year 1987 in the State of Karnataka, the Hon'ble Supreme Court, in a case where no salary certificate is produced or employer examined, held that the claim as to salary earned by accident victim may be accepted, if such claim is unreasonable and does not appear to be exaggerated.

26] In ***Jakir Hussein vs. Sabir and ors. - (2015) 7 SCC 252,*** even though, there was no evidence produced on record with regard to precise income of the driver at the time of accident, the Hon'ble Supreme Court held that income could be held as Rs.4500/- per month in respect of the accident, which took place in the year 2008 in the State of Madhya Pradesh. For this purpose, reference was made to the Notification issued by the State Government under section 3 of the Minimum Wages Act, 1948. At paragraph 14, the Hon'ble Supreme Court has observed thus:

> *"14. We have carefully examined the facts of the case and material evidence on record in the light of the rival legal contentions urged before us by both the learned counsel on behalf of the parties to find out as to whether the appellant is entitled for further enhancement of compensation ? We have perused the impugned judgment and order of the High Court and the award of the Tribunal. After careful examination of the facts and legal evidence on record, it is not in dispute that the appellant was working as a driver at the time of the accident and no doubt, he could be earning Rs.4,500 per month. As per the notification issued by the State Government of Madhya Pradesh under Section 3 of the Minimum Wages Act,1948, a person employed as a driver earns Rs.128 per day, however, the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine*

the compensation under the future loss of income. Minimum wage, as per State Government Notification alone may at times fail to meet the requirements that are needed to maintain the basic quality of life since it is not inclusive of factors of cost of living index. Therefore, we are of the view that it would be just and reasonable to consider the appellant's daily wage at Rs.150 per day (Rs.4,500 per month i.e. Rs.54,000 per annum) as he was a driver of the motor vehicle which is a skilled job. Further, the Tribunal has wrongly determined the loss of income during the course of his treatment at Rs.51,000 for a period of one year and five months. We have to enhance the same to Rs.76,500 (Rs.4,500 x 17 months)"

27] Similarly, in ***Sri Ramachandrappa v. The Manager, Royal Sundaram - 2011 (13) SCC 236***, the Hon'ble Supreme Court has held that even in absence of documentary evidence, the income of a Coolie in the year 2004, can be regarded as Rs.45,00/- per month. At paragraph 14, the Hon'ble Supreme Court has observed as follows:

"14. In the instant case, it is not in dispute that the appellant was aged about 35 years and was working as a Coolie and was earning Rs.4500/- per month at the time of accident. This claim is reduced by the Tribunal to a sum of Rs.3000/- only on the assumption that wages of the labourer during the relevant period viz. in the year 2004, was Rs.100/- per day. This assumption in our view has no basis. Before the Tribunal, though Insurance Company was served, it did not choose to appear before the Court nor did it repudiated the claim of the claimant. Therefore, there was no reason for the Tribunal to have reduced the claim of the claimant and determined the monthly earning a sum of Rs.3000/- per month. Secondly, the appellant was working as a Coolie and therefore, we cannot expect him to produce any documentary evidence to substantiate his claim. In the absence of any other evidence contrary to the claim made by the claimant, in our view, in the facts of the present case, the Tribunal should have accepted the claim of the claimant. We hasten to add that in all cases and in all circumstances, the Tribunal need not accept the claim of the claimant in the absence of supporting material. It depends on the facts of each case. In a given case, if the claim

made is so exorbitant or if the claim made is contrary to ground realities, the Tribunal may not accept the claim and may proceed to determine the possible income by resorting to some guess work, which may include the ground realities prevailing at the relevant point of time. In the present case, appellant was working as a Coolie and in and around the date of the accident, the wage of the labourer was between Rs.100/- to 150/- per day or Rs.4500/- per month. In our view, the claim was honest and bonafide and, therefore, there was no reason for the Tribunal to have reduced the monthly earning of the appellant from Rs. 4500/- to Rs.3000/- per month. We therefore, accept his statement that his monthly earning was Rs.4500/- ."

28] In ***Sanobanu N. Mirza and ors. vs. Ahmedabad Municipal Transport Service (Civil Appeal No. 8251 of 2013 decided on 3 October 2013***, the Hon'ble Supreme Court, again, by reference to the Notification under Minimum Wages Act, 1948 has held that even in absence of documentary evidence, the income of a Polisher, who is a skilled worker can be held as Rs.5000/- per month.

29] In ***New India Assurance Company Ltd. v. Sh. Vijay Singh and ors.****, ***Reliance General Insurance Company Ltd. v. Balveer and ors.**** and ***Shabeena Banu w/o. Late Shamsuddin v. Naseer Hussain and anr.***#, even in the absence of any documentary evidence with regard to income, a reasonable notional income was assessed, *inter alia,* by reference to the Notifications under Minimum Wages Act, 1948 and other relevant material.

30] By applying the aforesaid principles to the facts and circumstances of the present case, there is really no reason to

* MAC Appeal No. 280 of 2008 decided by the Delhi High Court on 9 May 2008

* S.B. Civil Misc. Appeal No. 4451 of 2011 decided by Rajasthan High Court on 1 November 2011

\# Misc. First Appeal No. 7387 of 2008 (MV) decided by the Karnatka High Court on 10 October 2012 interfere with the impugned judgments and awards, which have determined the monthly income of the deceased passengers at Rs.4500/- per month.

31] The submission with regard to assessment of future prospects, also deserves no acceptance. In ***Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors. - (2015) 6 SCC 347***, the Hon'ble Supreme Court has considered the law on the subject. The reasoning in the impugned judgments and orders is quite consistent with the law laid down by the Hon'ble Supreme Court in the said decision. It must be noted that the MACT has relied upon the decision of the Hon'ble Supreme Court in ***Rajesh V. Rajbir Singh - 2013(9) SCC 54***, which is incidentally the decision, which has been followed by the Hon'ble Supreme Court in *Munalal Jain (supra)*. Further, following the said two decisions, the MACT has added 50% to the actual income of the deceased passengers, where, the deceased passengers were below 40 years of age and has added 30% to the actual income of the deceased passengers, where such deceased passengers was 42 years of age (First Appeal No. 1568/2016). Thus, it is clear that there is application of mind on the part of the MACT and these impugned judgments and awards are quite consistent with the law laid down by the Hon'ble Apex Court in *Rajesh (supra)* and *Munlala Jain (supra)*. Accordingly, there is no case made out to interfere with the impugned judgments and awards in each of these appeals.

32] First Appeal Nos. 1560, 1561, 1562, 1567 and 1568 of 2016 are liable to be dismissed and the same are hereby dismissed.

33] In the result, all these first appeals are dismissed. In the facts and circumstances of the present case, however, there shall be no order as to costs.

34] The amount of Rs.25000/- deposited by the appellant in this court, in respect of each of the first appeals, is directed to be transmitted to the MACT, Mumbai within a period of four weeks from today. Now that the first appeals are dismissed, the MACT, Mumbai will permit the claimants to withdraw the amount of compensation deposited by the appellant together with interest which may have accrued thereon, consistent with the impugned judgments and awards, which form the subject matter of these appeals. In case of any short fall, needless to add that the claimants shall be entitled to proceed for execution.

35] The civil applications seeking withdrawal of compensation also stand disposed of in the aforesaid terms.

(M. S. SONAK, J.)

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