

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL ST NO. 5526 OF 2013
WITH
CIVIL APPLICATION NO. 3181 OF 2013
AND
CIVIL APPLICATION NO. 3182 OF 2013

The Divisional Manager, National Insurance Co ...Appellant
Ltd

Versus

Satyawati Dattaram Redkar & Ors ...Respondents

Mr Sanjay Krishnan, i/b Harshada Rane, for the Appellant.

CORAM: G.S. PATEL, J

DATED: 19th July 2017

PC:-

1. Heard. The appeal is from an order dated 15th September 2012 of the MACT, Sindhudurg at Oros in a fatal accident case. The deceased was a pedestrian.

2. On 12th September 2010, the deceased was returning home on foot. He worked as a coolie. At about 8.00 p.m. near Maneri on Banda Dodamarg road, an Indigo vehicle No. GA-03-C-7354

knocked him down. He was grievously injured. He was taken to the Primary Health Centre in Dodamarg. He died there.

3. His income was said to be Rs. 6,000/- per month. The insurer was the 2nd opponent. It is now in appeal. The first of the principal grounds in appeal is that as a pedestrian, the deceased was not sufficiently careful. Of this ground, the less said the better. In any case, there is no evidence of this. The view of the Trial Court in this regard is one with which I whole-heartedly agree: that no negligence can be attributed to the victim.

4. The second ground is that being a coolie, the victim had no significant future prospects. Once again, this is simply unstatable. In this day and age, it is not necessary to dilate on the career progression of individuals. We have more than enough examples of those who started at one level only to attain the highest levels.

5. There is not a shred of merit in the appeal. It is dismissed.

6. There are however certain errors that are evident. An incorrect multiplier of 11 has been taken. The correct multiplier should be 12. The amounts granted towards funeral expenses and loss of love and affection are considerably on the lower side. This will have to be corrected to Rs. 25,000/- and Rs. 1 lakh respectively, the latter equally divided between the two claimants. The total amount will, therefore, Rs. 4,99,400/- rounded off to Rs. 5 lakhs.

7. The decree is modified accordingly.

8. The remaining amount with all accrued interest at the rate awarded is to be deposited within eight weeks from today. The statutory deposit with all accrued interest will be transferred to the MACT Sindhudurg at Oros within two weeks from today.

9. The original claimants are at liberty to withdraw the entire amount with all accrued interest. The MACT will permit such withdrawal on production of an authenticated copy of this order.

10. The first appeal is disposed of in these terms. There will be no order as to costs.

11. The civil applications do not survive and are disposed of as infructuous.

(G. S. PATEL, J)