

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1163 OF 2016

WITH

CIVIL APPLICATION NO.1527 OF 2016

The Oriental Insurance Company Limited ...Appellant
Versus
Rajashree @Sunita Balasaheb Deshmukh ...Respondents
and ors.

Mr.Sanjay Krishnan for Appellant
Mr. R.S.Alange for Respondent No.1 and 5 and Applicant in
Civil Application No. 1527 of 2016.

CORAM: M.S.SONAK,J
DATED: 7th March 2017

PC:-

1. Heard Mr Sanjay Krishnan, learned counsel for the Appellant and Mr. Alange, learned counsel for the Respondent/Claimants.
2. Both the learned Counsel for the parties request that this matter be disposed of finally, at the stage of admission

itself, since, the Appellant-Insurance company has disputed only the quantum of compensation. Mr. Alange specifically states that he has instructions not to file any cross objections in the matter.

3. Mr. Krishnan, submits that the Motor Accident Claims Tribunal (MACT) has erred in treating the annual income of the deceased Balasaheb at Rs.1,50,000/- per annum. He submits that the deceased was an agriculturist and on basis of the material on record, the income should have been considered at Rs.10,000/- per month or Rs.1,20,000/- per annum, but not more than the same. He submits that, the land of the deceased continues to be in possession with the legal representatives. On the aspect of future prospects, Mr.Krishnan fairly concedes that in this case, the deduction towards personal expenses should have been $1/4^{\text{th}}$ and not $1/3^{\text{rd}}$ as taken by the MACT. On this basis, he submits that the total compensation comes to Rs.13,50,000/- and not Rs.16,07,000/-as awarded by the MACT in the impugned judgment and award.

4. Mr. Alange, the learned counsel for the claimants by placing reliance upon the decision of the Hon'ble Supreme Court in the case of *Neeta W/o Kallappa Kadolkar and Ors..V.. The Divisional Manager, Maharashtra State Road Corporation, Kolhapur, (2015) 3 SCC 590* submits that, there is nothing wrong in treating the income of the deceased at Rs.1,50,000/- p.a. In any case, he submit that in this matter, the MACT has failed to make any addition towards future prospects and further, hardly any award has been made towards loss of consortium, loss of love and affection and funeral expenses. He submits that in terms of the ratio laid down in *Sarla Varma. And Ors..V..Delhi Transport Corp. and anr.[2009(6)SCC12]* at least a sum of Rs.1,00,000/-was required to be paid to each of the claimants towards loss of consortium, loss of love and affection and further an amount of Rs.25,000/- towards funeral expenses. He also submits that even if the contention of Mr.Krishnan is accepted in addition of all such amounts, the claimants are entitled to compensation exceeding a sum of

Rs.16,07,000/-.For these reasons, he submits that the Appeal is liable to be dismissed.

5. In this case, even if the contention of Mr. Krishnan is to be accepted that the income of the deceased is required to be taken at only Rs. 1,20,000/- and further, no addition is required to be made towards future prospects, even then the compensation towards loss of dependency comes to Rs.13,50,000/-. This is because as rightly contended by Mr.Krishnan, in this case, the correct multiplier is 15 and not 16 as taken by the MACT. However, to this amount of Rs. 13,50,000/- the amount of Rs.1,00,000/- is required to be added towards loss of consortium to the widow Rajashree; an amount of Rs.3,00,000/- towards loss of love and affection to the three minor children of the deceased Balasaheb; and Rs.50,000/- towards loss of love and affection to his mother Malanbai. The claimants are entitled to compensation of an amount of Rs.25,000/-towards funeral expenses. If the total amount of Rs.4,75,000/- is added to the amount of Rs.13,50,000/-, which, even according to the Appellant, is

just compensation, then the total compensation amount comes to Rs.18,25,000/- which is greater than the compensation of Rs.16,07,000/- awarded by the MACT.

6. In the aforesaid circumstances, there is no case made out to interfere with the impugned award. The Appeal is accordingly, dismissed. An amount of Rs.25,000/- deposited by the Insurance Company is directed to be transmitted to the concerned MACT within 2 weeks from today. The claimants shall be entitled to compensation as awarded by MACT.

7. There shall be no order as to costs.

(M.S.SONAK,J)