Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL No. 201 OF 2017
WITH
CIVIL APPLICATION NO. 190 OF 2017 IN F.A.NO.201 OF 2017

Shriram General Insurance Company Ltd. ... Appellant/Applicant
Vs.
Deepali Baban Surve & Ors. ... Respondents

Mr. Nikhil Mehta i/b. KMC Legal Venture, Advocate for the appellant/applicant.
Mr. Sangrmsinh Yadav, Advocate for respondent nos. 1 to 4.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **21st September, 2017.**

ORDER:

This Appeal is directed against the judgment and award dated 6th August, 2014 passed by the Chairman, Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 1 of 2012. Applicant no. 1 is wife, applicant no. 2 is daughter and applicant nos. 3 and 4 are parents of the deceased Baban Manaji Surve. Baban Surve lost his life in a vehicular accident on 26th January, 2011. The truck owned by opponent no. 1 and insured by the appellant, stopped abruptly without any indication and therefore, the jeep, being driven by the deceased, rammed into the truck causing his death on the spot. The applicants filed an Application under section 153A of the Motor Vehicles Act. The insurance company appeared in the said matter.

The Tribunal, after considering the oral and documentary evidence, granted compensation of Rs.6,98,600/- along with interest @7.5% p.a. The order of the Tribunal is challenged by the appellant/insurance company on the ground of income, negligence and also on the point of wrong conclusion by the learned Chairman, Motor Accident Claims Tribunal.

2. The issue involved in this matter is infact nothing except the wrong conclusion. On perusal of the judgment, it is found that the learned Chairman of the Tribunal has considered the principles under section 163A of Motor Vehicles Act and has also considered the relevant case laws. The learned counsel for the appellant though has challenged the income of the deceased which was fixed by the Tribunal as Rs.3,300/- p.m., after considering the record and reasoning given by the learned Chairman of the Tribunal, I am of the view that fixing the income at Rs.3,300/- p.m. cannot be faulted with. The learned counsel for both the sides agree that there is error in calculation where the income is fixed at Rs.3,300/- p.m. The compensation awarded as Rs.6,98,600/- is wrong, instead the calculation should be as follows:

No.	Description	Amount in Rs.
1)	Loss of dependency (Rs.3300 p.m. X 12 months = 3,96,000 X 18 multiplier = Rs.7,12,800 - 1/3rd towards personal expenses Rs.2,37,600 = Rs.4,75,200/-)	4,75,200
2)	Funeral expenses	2,000
3)	Loss of Estate	2,500
4)	Loss of consortium for petitioner no. 1	5,000
	Total	**4,84,700**

3. Thus, the amount of compensation ought to have been awarded as Rs.4,84,700/- by the Tribunal instead of Rs.6,98,600/-. To that extent, the judgment and award is required to be amended. Hence, following order is passed:

O R D E R

(i) The Appeal is partly allowed;

(ii) The amount of compensation is Rs.4,84,700/-;

(iii) The order of interest @ 7.5 p.a. from the date of filing of the petition is maintained;

(iv) The appellant/insurance company has deposited the entire amount as per the award granted by the Tribunal. Thus, after calculating compensation of Rs.4,84,700/- + interest @ 7.5 p.a. from the date of filing of the Petition, the excess amount is to be refunded to the appellant/insurance company. The respondents/original claimants are allowed to withdraw the entire amount.

(v) The statutory amount of Rs.25,000/- deposited by the insurance company at the time of filing of Appeal is to be transferred to M.A.C.T., Satara.

4. Civil Application is also accordingly disposed of.

(MRIDULA BHATKAR, J.)