

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1125 OF 2016
WITH
CIVIL APPLICATION NO. 2975 OF 2016

The New India Assurance Co. Ltd. .. Appellant
vs.
Smt. Minakshi S. Pisal and anr. .. Respondents

Mr. S.M. Dange for the Appellant.
Mr. Mehta i/b KMC Legal Venture for Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 14 MARCH 2017.

P.C. :-

1] Heard Mr. Dange, learned counsel for the appellant and Mr. Mehta, learned counsel for respondent No.1/claimant. Respondent No.2 is yet to be served. To the appeal memo, the appellant has appended Note-3, which reads thus:

“3. The Appellant is challenging future prospects only to the extent of Rs.1,78,460/- and paying court fee thereon (Rs.8,030/-)”

2] Mr. Dange, learned counsel for the appellant, points out that on 2 July 2014, the Division Bench of this Court in **National Insurance Company Ltd. Vs. Pushpa and ors. -(2015) 9 SCC 166** has referred the decisions in **Reshma Kumari & ors. vs. Madan Mohan and anr. (2013) 9 SCC 65** and **Rajesh Vs. Rajbir Singh – 2013 (9) SCC 54** to the Larger Bench, since there is a conflict between the two decisions. Mr. Dange submits that in such circumstance, the Motor Accident Claims Tribunal (MACT) was not justified in making addition of 30% towards future prospects.

3] The Hon'ble Supreme Court in *Munna Lal Jain and anr. vs. Vipin Kumar Sharma & ors. - 2015(6) SCC 347*, after taking into consideration the decision in *Sarla Verma (Smt.) & ors. vs. Delhi Transport Corporation and anr. - (2009) 6 SCC 121* and *Santosh Devi vs. National Insurance Company Ltd. and ors. - 2012(6) SCC 421*, has held that addition to the extent of 50% is required to be made towards future prospects where the deceased victim is below 40 years and to the extent of 30% where the deceased is between 40 and 50 years. The circumstance that there is reference made to the Larger Bench, does not, by itself denude the precedential authority of *Munna Lal Jain (supra)*, which is incidentally, a decision delivered by a Bench of three Judges.

4] Further, upon perusing the impugned judgment and award, it is noticed that only an amount of Rs.50,000/- has been awarded towards loss of consortium, loss of love and affection to the widow. *Prima facie*, an amount of at least Rs.1 Lakh is required to be paid to this widow.

5] Since, no other point has been urged, there is no necessity to admit this appeal. The appeal is accordingly, dismissed. There shall however, be no order as to costs.

6] The amount of Rs.25,000/- deposited by the appellant in this court is directed to be transmitted to the concerned MACT within a period of four weeks from today. Now that the first appeal is dismissed, the concerned MACT will permit the claimant to withdraw the amount of compensation deposited by the appellant

together with interest which may have accrued thereon, consistent with the impugned judgment and award, which form the subject matter of the appeal. In case of any short fall, needless to add that the claimant shall be entitled to proceed for execution.

7] In view of disposal of the first appeal, the civil application does not survive and the same is also disposed of.

(M. S. SONAK, J.)

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