Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL (ST) NO.14627 OF 2014
WITH
CIVIL APPLICATION NO.798 OF 2015

The Oriental Insurance Co Ltd Through Mumbai Third Party Hub …Appellant
Versus
Kushal Hotchand Karmiyani & Ors …Respondents

Mr Ketan Joshi, *i/b DS Joshi, for the Appellant.*
Mr Neel G Helekar, *for the Respondent No.1.*

CORAM: G.S. PATEL, J
DATED: 18th July 2017

PC:-

1. The Appeal can be disposed of immediately since there is an apparent error in the award. The Motor Accident Claims Tribunal (**"MACT"**), Mumbai, incorrectly applied a multiplier of 18 instead of 9. There can be no dispute that the correct multiplier is in fact 9, the claim having been brought by the parents of the deceased. There is also no dispute about his income at Rs.7,000/-. Mr Helekar for the claimants confirms that the his clients have not filed any independent appeal for an enhancement.

2. The MACT awarded an amount of Rs.11,62,000/- in the following manner:

Monthly Salary Rs.7,000/-, annually it come to Rs.7 X 12	Rs. 84,000/-
50% added is towards future prospects	Rs. 42,000/-
Total	Rs.1,26,000/-
½ is deducted towards personal expenses (minus) Multiplier	X 18
Total	Rs.11,34,000/-
Love and affection	Rs. 10,000/-
Loss of Estate	Rs. 10,000/-
Towards Conveyance	Rs. 5,000/-
Funeral expenses	Rs. 3,000/-
Total	Rs.11,62,000/-

3. If the correct multiplier is applied, the principal amount towards loss of dependency and future prospects comes to Rs.5,67,000/-.

4. The only ground for interference, if it can be called that, is that the amounts awarded towards loss of love and affection, estate and funeral expenses are too low. A total of Rs.28,000/- has been so awarded. In my view, the amount towards funeral expenses should be Rs.25,000/- and the amount awarded towards loss of love and affection/loss of estate should be Rs.1,00,000/- for each of the two claimants, thus making a total of Rs.2,25,000/-. The amount of Rs.5,000/- towards conveyance is retained. Thus the total award should be corrected to read as being Rs.5,67,000/- + Rs.2,25,000/-

+ Rs.5,000/- making a total award of Rs.7,99,000/- rounded off to Rs.8,00,000/-.

5. The decree is modified accordingly. This is inclusive of the No Fault Liability amount. It is pointed out that although the Tribunal awarded interest 7.5% per annum from the date of the application, the entire amount with interest has not been deposited. The interest will be recomputed on the corrected/modified decretal amount of Rs.8,00,000/- and will be payable from the date of the application. The entire balance amount will be deposited with the MACT within a period of six weeks from today. The statutory deposit of Rs.25,000/- will be transferred to the MACT, if not already done, and will be invested until withdrawal.

6. The applicants are at liberty to withdraw the entire amount, including the statutory deposit, with accrued interest.

7. The MACT will permit the withdrawal on production of the authenticated copy of this order.

8. The First Appeal is disposed of in these terms. No costs. In view of the disposal of the Appeal, the Civil Application does not survive and is disposed of accordingly.

(G. S. PATEL, J.)