IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.876 OF 2016
WITH
CIVIL APPLICATION NO.2109 OF 2016

United India Insurance Company Limited … Appellant
Versus
Mrs. Savita @ Manisha Subhash Wagh
And Others … Respondents

WITH
CIVIL APPLICATION NO.425 OF 2017

Mrs. Savita @ Manisha Subhash Wagh
And Others … Applicants
Versus
United India Insurance Company Limited … Respondent

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Mr. Nikhil Mehta i/b KMC Legal Venture for the Appellant.
Mr. S.S. Kothiya i/b Ramesh Chavanke for Respondent Nos.1 to 3.

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CORAM : S.C.GUPTE, J.

DATE : 3 MAY 2017

P.C. :

. Heard learned Counsel for the parties.

2 This First Appeal challenges an award of compensation passed by Motor Accident Claims Tribunal at Kalyan, on a Motor Accident Claim Petition. The Applicants (who are the Respondents to the present First Appeal) are legal heirs of the deceased accident-victim. The deceased was driving in a jeep on Mumbai-Agra road from Shahpur to Khardi. When the

jeep reached near Village-Lahe, one tanker coming from the opposite direction collided with the jeep. The deceased died on the spot. The main grounds of challenge before the Trial Court on the part of the Insurance Company, were that there was negligence on the part of the driver of the jeep and that the quantum of compensation based on computation of income was incorrect. Nothing was placed on record before the Trial Court in respect of the alleged negligence by the Appellant insurer. Therefore, there is, accordingly, no merit in this contention. The other ground is that the deceased's notional income, considered at Rs.3,000/- per month as a self-employed person, ought not to have been added by 50% towards future prospective income. The Supreme Court in the case of **Munna Lal Jain Vs. Vipin Kumar Sharma**[1] after reviewing the case law on the point, including the cases of **Sarla Verma (Smt.) Vs. Delhi Transport Corporation**[2], **Santosh Devi Vs. National Insurance Co. Ltd**[3] and **Rajesh Vs. Rajbir Singh**[4], held that even in case of self-employed persons, if the age of the deceased victim is below 40 years, there must be an addition of 50 % to the actual income of the deceased while computing future prospects. It is not in dispute that the deceased was below 40 years (as per the judgment of the Trial Court, which is not a matter of dispute, the age of the deceased was 30 years). The addition of 50% towards future prospects cannot, in that case, be termed as unreasonable or illegal.

3 In the premises, there is no merit in the First Appeal. The First Appeal is dismissed. No order as to costs.

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1 2015 (3) T.A.C. 1 (S.C.)

2 (2009) 6 SSC 121

3 (2012) 6 SCC 421

4 (2013) 9 SCC 54

4 The amount of Rs.25,000/- deposited by the Appellant insurer as a pre-condition of filing the present First Appeal, shall be transferred by the Registry to MACT at Kalyan, to enable the Applicants to withdraw the compensation.

5 In view of the dismissal of the First Appeal, the civil applications do not survive and the same are also disposed of.

(S.C. GUPTE, J.)