

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (ST.) NO. 33562 OF 2017
IN
FIRST APPEAL NO. 1967 OF 2015

THE NEW INDIA ASSURANCE CO. LTD., THR ITS MANAGER, LEGAL
HUB, AURANGABAD
VERSUS
THE MANAGER, NATIONAL INSURANCE CO. LTD., AHMEDNAGAR
AND ORS

...
Advocate for Applicant : Mr. M.M. Ambhore
Advocate for Respondent No.2 : Mr. A.C. Darandale
Advocate for Respondent No.6 : Mr. P.D. Suryawanshi,
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CORAM : V. K. JADHAV, J.
DATED : 21st FEBRUARY, 2018

PER COURT:-

1. By consent of the parties, this review application is heard finally.
2. Learned counsel for the review petitioner-New India Assurance Company Ltd. submits that the Supreme Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and others, reported in 2017 (4) T.A.C. 673 (S.C.)***, has considered that 40% of the amount to be added by future prospects in the event if the victim below the age of 40 years met with an accidental death. The compensation under the head of loss of care and guidance for minor children has not been considered by the Supreme Court and further

granted compensation on conventional heads namely loss of estate, loss of consortium and funeral expenses i.e. to the extent of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively, to be enhanced at the rate of 10% in every three years. Learned counsel submits that in the instant case, the Tribunal has awarded excessive amount under the heads of loss of love and affection, funeral and also on conventional heads and this court has confirmed the said order.

3. Learned counsel for the respondents-original claimants submits that this court has confirmed the judgment and award passed by the Tribunal by order dated 27.02.2017 whereas the Supreme Court has delivered the judgment in the case of ***National Insurance Company Limited vs. Pranay Sethi and others, (supra)*** on 31.10.2017. Learned counsel submits that in view of above, the review application seeking review of earlier judgment and order cannot be considered on the basis of subsequent verdict of the superior court.

4. In the instant case, the Tribunal has considered the income of deceased on higher side. In para 9 of the judgment, considering the evidence on record, this court has reduced the said income from Rs.6000/- p.m. to Rs.4500/- p.m. with 50% of the income to be added towards future prospects. So far as the compensation awarded

under the non pecuniary heads is concerned, this court has upheld the judgment and award passed by the Tribunal. Learned counsel appearing for the respondents has rightly submitted that on the basis of subsequent judgment of the superior court, this review application cannot be entertained.

5. In view of above, I do not find any reason to review the judgment and order dated 27.02.2017 passed by this Court in first appeal No. 1967 of 2015. Review petition is rejected.

(V. K. JADHAV, J.)

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