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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO.21883 OF 2016

Reliance General insurance Co.Ltd. ... Appellant.
V/s.
Admisamay Maniraj Nadar
and ors ... Respondents

Ms. Poonam Mital, for the applicant.
Ms.Varsha Chavan, for respondent Nos. 1 to 3.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 11th OCTOBER, 2018.

P.C. :

1] Heard learned counsel for the appellant Insurance Company and respondents.

2] This Appeal is preferred by the Insurance Company, challenging the judgment and award dated 23.02.2016, passed by Motor Accident Claims Tribunal, Mumbai, in M.A.C.P. 406 of 2010, on the count that amount of compensation awarded by the Tribunal, is on excessive side.

3] As rightly submitted by learned counsel for appellant, the Tribunal has wrongly applied the multiplier of “13”, though in view of the judgment of the Hon'ble Supreme Court, in the case of **Sarla Verma and others -vs- Delhi Transport Corporation and**

another [2009 ACJ 1298], the age of the deceased being 45 years, it ought to have been "14". Hence, the multiplier needs to be corrected from "15" to "14".

4] Secondly, the Tribunal has awarded future prospects at the rate of 30% in the light of judgment of the Apex Court in the case of **Rajesh and other -vs- Rajbir Singh [2013 ACJ 1403].** However, in view of the law laid down by the Hon'ble Supreme Court, in the case of **National Insurance Co.Ltd -vs- Pranay Sethi and others [2017 ACJ 2700],** future prospects need to be calculated at the rate of 25%.

5] Moreover, under the conventional heads also, in the light of judgment in the case of National Insurance Co.Ltd -vs- Pranay Sethi (supra), fixed amount of compensation is Rs.70,000/-.

6] Thus, the total amount of compensation to which respondents/claimants are entitled comes to Rs.1,54,879/- per annum as the income; 25% of the same towards future prospects comes to Rs.38,720/-. It comes to Rs.1,93,599/-. After making 1/3rd deduction thereof towards his personal and living expenses, it comes to Rs.64,533/- with the multiplier is "14", dependency comes to Rs.18,06,924/- + amount of Rs.70,000/- towards conventional heads. Hence, the total amount of compensation to which respondents/claimants are entitled comes to Rs.18,76,924/-. The

Tribunal has awarded an amount of Rs.19,19,900/-, which needs to be reduced accordingly to Rs.18,76,934/-.

7] In view thereof, the Appeal is partly allowed.

8] The award of Tribunal is modified to the extent that amount of compensation Rs.19,19,900/- as awarded by the Tribunal is reduced to Rs.18,76,934/-. Rest of the order of the order of Tribunal stands confirmed.

9] An amount of Rs.25,000/- which is deposited by appellant insurance company as statutory deposit in this Court be transferred to the Tribunal.

10] As the appellant has deposited the entire amount of compensation in the Tribunal, Appellant is entitled and at liberty to withdraw the excess amount with proportionate interest accrued thereon.

11] Appeal is disposed off in above terms.

[DR.SHALINI PHANSALKAR-JOSHI, J.]