

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1382 OF 2015
ALONG WITH
CIVIL APPLICATION NO.800 OF 2014

IFFCO TOKIO General Insurance Co. Ltd.,
Thane Appellant-Applicant

V/s.
Radhika Avadhesh Yadav and Ors. Respondents

ALONG WITH
CIVIL APPLICATION NO.998 OF 2016
IN
FIRST APPEAL NO.1382 OF 2015

Radhika Avadhesh Yadav and Ors. Applicants

In the matter between
IFFCO TOKIO General Insurance Co. Ltd.,
Thane Appellant-Applicant

V/s.
Radhika Avadhesh Yadav and Ors. Respondents

Mr. Abhijit P. Kulkarni for the Appellant-Applicant.

Ms. Rina Kundu for Respondent Nos.1 to 3.

Mr. Kishor S. Patil for Respondent No.4.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 9TH JANUARY, 2019.

P.C. :

1. Heard learned counsel for the Appellant-Applicant and Respondents.

2. This Appeal is directed only against the quantum of compensation.
3. According to the Appellant-Insurance Company, as per the own admission of the Respondents-Original Claimants, the 'Deceased' was getting the salary of Rs.25,000/- per month, on an average, before the accident, as stated in paragraph No.14 of the Claim Petition. The Tribunal has, however, awarded the compensation rounding-off the said salary as Rs.30,000/- per month.
4. In my considered opinion, the said finding of the Tribunal cannot be called as legal and correct. When as per the own admission of the Original Claimants, the salary of the 'Deceased' was Rs.25,000/- per month, on an average, before the accident. Therefore, on the same salary, the amount of compensation needs to be computed.
5. Hence, the 'Judgment and Order' of the Tribunal is modified to the extent that, the 'average income' of the 'Deceased' is considered to be Rs.25,000/- per month. The amount of compensation, accordingly, stands modified to Rs.35,75,040/-.
6. The Appeal is allowed in the aforesaid terms.
7. In view of the above, the Civil Applications pending therein do not survive and the same stand disposed off as infructuous.

[DR. SHALINI PHANSALKAR-JOSHI, J.]