

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 1434 OF 2014

Shriram General Insurance Co. Ltd.	...	Appellant
V/s.		
Lalman Shripat Yadav		
(Since deceased) Through LRs. & Ors.	...	Respondents

- Mr.Mehta i/b. KMC Legal Venture for the Appellant.
- Mr.Baliram V. Kamble for Respondent Nos.1 to 6.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 28th JANUARY, 2019.

P.C. :

- 1] Not on board. Upon mentioning taken on production board.
- 2] Heard learned counsel for both the parties.
- 3] This appeal takes an exception to the judgment and order dated 31/07/2013 passed by the Commissioner for W.C. Act and Judge, Labour Court, Mumbai, thereby allowing the application filed by Respondent Nos.1 to 6 and directing the Appellant herein to deposit jointly and severally the compensation amount of Rs.6,72,840/- with

simple interest at the rate of 12% per annum from 15/01/2011 till actual deposit of the amount.

4] The appeal is preferred on two grounds. The first is the relationship of employee and employer is disputed. However, perusal of the judgment passed by the trial Court goes to show that absolutely no evidence was led on this aspect to disprove the existence of relationship as employee and employer between the parties. In view thereof, no interference is warranted in the impugned judgment passed by the trial Court on this score.

5] The second contention is that the trial Court has erred in final calculation figure by taking deduction to the extent of 60% instead of 50% which is applicable in case of death claim and 60% deduction is only applicable in personal injury cases.

6] Learned counsel for Respondent Nos.1 to 6-Original Claimants fairly concedes that the deduction of only 50% is permissible in the instant case. In view thereof, to that extent the impugned judgment and order passed by the trial Court needs modification.

7] If deduction of 50% instead of 60% is considered in the present case, then the total amount of compensation to which the Respondent Nos.1 to 6 are entitled goes to Rs.186.90 x 3000 = 5,60,700/- .

8] Accordingly, the impugned judgment and decree passed by the trial Court is modified and the Appellant and Respondent No.7 are held liable for the payment of compensation amount of Rs.5,60,700/- with interest thereon at the rate of 12% per annum as directed by the trial Court.

9] It is submitted that the amount of Rs.9,05,550/- is already deposited in the Court. The Respondent Nos.1 to 6 be paid the amount of Rs.5,60,700/- along with interest at the rate of 12% per annum thereon as per the order of the trial Court and the remaining amount, if any, be directed to be refunded to the Appellant-Insurance Company.

10] With the above modification in the impugned order passed by the trial Court, the Appeal stands disposed of accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]