

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

FIRST APPEAL NO. 1313 OF 2018

Reliance General Insurance Co. Ltd.Appellant
V/s.
Siddheshwar Somanappa Salegaonkar and anr.Respondents

**WITH
CIVIL APPLICATION NO. 1508 OF 2019
IN
FIRST APPEAL NO. 1313 OF 2018**

Siddheshwar Somanappa SalegaonkarApplicant

In the matter between :-

Reliance General Insurance Co. Ltd.Appellant
V/s.
Siddheshwar Somanappa Salegaonkar and anr.Respondents

Mr. Nikhil Mehta i/b. KMC Legal Venture for the appellant / applicant.
Mr. Ajit V. Alange for respondent no.1.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 04th OCTOBER, 2019**

P.C.:-

. With consent of the parties, the matter is heard finally at the stage of admission.

2. The appellant – insurance company has challenged the impugned judgment and award dated 15/02/2018 passed by the MACT, Raigad-Alibag in MACP No.434/2011. By the impugned judgment and award, the Claims Tribunal has awarded compensation of Rs.13,94,000/- with

interest @ 7% p.a. from the date of application till final realization.

3. The respondent no.1 who shall be hereinafter referred to as 'the claimant' had met with an accident on 02/08/2011 involving a tanker bearing no. MH-04-EL-6600. It is the case of the claimant that on the relevant date, he was driving by Alto Car bearing no.MH-14/CC4806 and was proceeding from Mumbai to Pune. At about 11:00 p.m., when he had reached village Sarsan, the offending vehicle came at a fast speed and dashed against the Alto Car, as a result he sustained grievous injuries resulting in permanent disablement.

4. The claimant had stated that he was earning Rs.10,000/- per month. The claimant has stated that he was unable to continue with his work after the accident due to permanent disablement and that his annual loss of earning was to the tune of Rs.72,000/-. The claimant filed an application under Section 166 of Motor Vehicles Act claiming total compensation of Rs.8,00,000/-.

5. The appellant – insurance company did not dispute its liability to indemnify the insured. The appellant – insurance company contest the application mainly on the ground that the compensation claimed by the claimant was exorbitant.

6. Upon considering the evidence on record, the Claims Tribunal considered the monthly income of Siddheshwar as Rs.6,000/-. Considering the nature of the injuries sustained by the claimant and the resultant permanent disablement, the Tribunal awarded Rs.10,08,000/- towards permanent disablement and loss of earning, Rs.1,00,000/- towards pain and suffering, Rs.1,35,227/- towards medical expenses, Rs.50,000/- towards special diet and attendant charges and Rs.1,00,000/- for loss of amenities and discomfort. Being aggrieved by the said judgment and award, the appellant – insurance company has preferred this appeal.

7. In the course of hearing, Mr. Nikhil Mehta, the learned counsel for the appellant – insurance company stated that he is restricting the challenge only to the award of compensation of Rs.50,000/- which was awarded under the head of special diet and attendant charges and Rs.1,00,000/- towards loss of amenities and discomfort. Mr. Ajit Alange, the learned counsel for respondent no.1/claimant, under instructions, states that the claimant is ready to waive the said amount of Rs.1,50,000/-. He concedes for reduction of Rs.1,50,000/- from the total compensation awarded by the Tribunal.

8. Hence, the following order :-

- (a) The appeal is partly allowed.
- (b) It is held that the respondent no.1 is entitled for total compensation of Rs.12,44,000/- with interest @ 7% p.a. from the date of the application till final realization.
- (c) The balance amount of Rs.1,50,000/- which has been deposited by the appellant – insurance company be refunded along with appropriate interest accrued thereon. Award be modified accordingly.
- (d) Statutory deposit be transferred to the Claims Tribunal, Raigad.
- (e) Liberty is granted to the respondent / claimant to apply for withdrawal of the compensation before the Tribunal.

9. Appeal stands disposed of. Civil Application stands disposed of in view of disposal of the appeal.

Preeti
H.
Jayani

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(SMT. ANUJA PRABHUDESSAI, J.)