

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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FIRST APPEAL (STAMP) NO. 16788 OF 2012
WITH
CIVIL APPLICATION NO. 153 OF 2013
IN
FIRST APPEAL (STAMP) NO. 16788 OF 2012

The Oriental Insurance Co. Ltd. .. Appellant
Vs.
Jamanadevi Kaluram Bhat & Ors. .. Respondents

Mr. D. S. Joshi for the Appellant.
Mr. Mriganka Kundu for Respondent Nos. 1 to 3, 5 & 6.

CORAM : SMT. BHARATI DANGRE, J.
DATE : 24th SEPTEMBER, 2019.

P.C. :

1. The Oriental Insurance Co. Ltd. has instituted First Appeal being aggrieved by the Judgment delivered by the Motor Accident Claim Tribunal, Palghar on 29.10.2010. The Respondent Nos.1 to 3 and Respondent Nos.5 & 6 are the heirs of the Claimant and Respondent No.4 is the owner of the motor lorry allegedly involved in the accident.
2. I have heard the learned Counsel for the parties. Perused the Judgment of M.A.C.T. which takes into consideration the fact that the deceased was aged 27 years and was earning amount of Rs.6,600/- p.m.

Witness No.2 an employee of Nissan Copper Ltd has been examined and he has brought on record the salary certificate which is exhibited as Exhibit 28 which clearly reveal that for the month of May, 2007, the salary amount due to the deceased was 6,600/- and it was accordingly paid. Applying the multiplier of 18, annual income has been calculated at Rs.72,000/- and after deducting 1/3rd towards personal expenses, annual income arrived at by the Tribunal is Rs.48,000/-.

3. Learned Counsel for the Insurance Company has argued that conventional heads have not been worked out and that is why the Judgment suffers from an error. Learned Counsel for the Insurance Company has also assailed the Judgment on the ground that the aspect of contributory negligence has not been taken into consideration. However, the said contention is also to be mentioned which is to be rejected since there is no evidence rendered by the Insurance Company to that effect and the Tribunal has also dealt with the said aspect in paragraphs 10 and 11 of the Judgment.

4. I am not ready to accept the contention as based on the evidence brought before it, the annual income is calculated as Rs.72,000/- and the net income of Rs.48,000/- has been arrived. There is no illegality in the view taken by the Tribunal, since it applies the acceptable method.

5. For want of any infirmity in the Judgment, the First Appeal is dismissed. In view of its dismissal, Civil Application No. 153 of 2013 does not survive and is also disposed of.
6. Needless to state that the amount deposited is permitted to be withdrawn by the Claimants.

[SMT. BHARATI DANGRE, J.]