

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

**FIRST APPEAL (ST.) NO.31005 OF 2017
ALONG WITH
CIVIL APPLICATION NO.3617 OF 2019**

Reliance General Insurance Co. Ltd. .. Appellant/Applicant

Vs.

Shaurya Amitkumar Savane & Ors. .. Respondents

Mr.Rahul Mehta i/by M/s.KMC Legal Venture for the applicant/
appellant.

Mr.Yogesh Pande for the respondent nos.1 & 2.

CORAM : R.D.DHANUKA, J.

DATE : 14th November 2019

P.C.:

. This first appeal is not on board taken on board, by consent
of parties and is heard finally.

2. By this first appeal, the appellant has impugned the
judgment and award dated 19th September 2016 passed by the Additional
Member, Motor Accident Claims Tribunal, Pune in MACP No.904 of
2013 allowing the claims partly made by the respondents.

3. Mr.Mehta, learned counsel for the appellant submits that the
dispute is in respect of quantification only. Though the appellant has
challenged the entire award on quantification, Mr.Mehta, learned
counsel fairly invited my attention to the amount of Rs.1,00,000/-
awarded by the Tribunal towards pains and suffering and love, affection

and Rs.25,000/- towards funeral expenses. He strongly placed reliance on the judgment of the Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Ors.*** delivered on 31st October 2017 in SLP (Civil) No.25590 of 2014 and in particular paragraph 54 and would submit that Supreme Court in the said judgment had considered the compensation towards loss of estate, loss of consortium and funeral expenses in the sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively and thus the Tribunal could not have awarded a sum of Rs.1,25,000/- towards pains and suffering and love, affection and funeral expenses. He submits that according to the judgment of the Supreme Court, the Tribunal could have allowed maximum amount of Rs.70,000/- towards the said heads of pains and suffering and love, affection and funeral expenses.

4. In so far as the monthly income of the deceased is concerned, the Tribunal has considered the salary certificate produced by the representative of the employer proving the income of Rs.10,000/- per month. The other heads of compensation allowed by the Tribunal are not in dispute. The other heads allowed by the Tribunal such as 50% future prospect and multiplier of 17 are covered by the judgment of Supreme Court in the case of ***National Insurance Company Limited (supra)***. I do not find any infirmity in that part of the judgment and award rendered by the Tribunal.

5. Learned counsel for the original claimant fairly conceded that in so far as the compensation towards pains and suffering and love, affection and funeral expenses in the sum of Rs.1,25,000/- are concerned, the same is contrary to the views taken by the Hon'ble Supreme Court in the case of ***National Insurance Company Limited (supra)*** and further submits that the said amount can be reduced to Rs.70,000/-. Statement is accepted.

6. I therefore pass the following order :-

(i) In the impugned judgment and award dated 19th September 2016, the claim of compensation for Rs.1,00,000/- towards pains and suffering and love, affection and Rs.25,000/- towards funeral expenses is reduced to Rs.70,000/- in toto, in so far as those claims for compensation are concerned.

(ii) Remaining part of the judgment and award is upheld.

(iii) First appeal is partly allowed to the extent of reduction from Rs.1,25,000/- to Rs.70,000/- along with interest as awarded by the Tribunal on the entire amount.

(iv) Since the appellant has deposited the entire amount and the appeal is partly allowed, the appellant would be at liberty to withdraw the amount to the extent of the amount, the appellant has partly succeeded in the appeal.

- (v) The respondent would be at liberty to withdraw the balance amount from the MACT, Pune.
- (vi) The MACT to permit the respondent to withdraw the balance amount after returning part of the amount in favour of the appellant as directed aforesaid within three weeks from the date of production of authenticated copy of this order.
- (vii) The mandatory deposit made by the applicant before this Court shall be transferred to the MACT, Pune in M.A.C.P. No.904 of 2013 expeditiously.
- (viii) In view of disposal of the first appeal, pending civil application does not survive and is accordingly disposed of.
- (ix) There shall be no order as to costs.

R.D.DHANUKA, J.