

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 275 OF 2017

Reliance General Insurance Co. Ltd.)
4th Floor, Chintamani Avenue,)
Off. Western Express Highway,)
Next to Virwani Industrial Estate,)
Goregaon (E), Mumbai 400 063) **..... Appellant**

VERSUS

1. Vilas Laxman Bangar,)
Age 45 years, Occ. Business)

2. Sanjivani Vilas Bangar,)
Age 42 years, Occ. Household)
Both R/o. B-26, Room No.4,)
State Bank Colony, Sector – 13,)
Nerul, Navi Mumbai)

3. Deepak Damodar Sabale,) **Vide RJ-II Court's order**
Adult, Occ. Business) **dt.21.2.19 R.No.3 abated**
R/o. Block No.107, 1st Floor, OB-2,)
Poonam Nagar, Chakala, M.I.D.C.,)
Andheri (East), Mumbai – 400 093) **..... Respondents**

ALONGWITH
INTERIM APPLICATION NO. 1 OF 2019
IN
FIRST APPEAL NO. 275 OF 2017

1. Vilas Laxman Bangar,)
Age 56 years)

2. Sanjivani Vilas Bangar,)
Age 53 years,)
Both residing at)
B-26, Room No.4, State Bank)
Colony, Sector – 13, Nerul,)
Navi Mumbai) **..... Applicants**

IN THE MATTER OF

Reliance General Insurance Co. Ltd.)
4th Floor, Chintamani Avenue,)
Off.Western Express Highway,)
Next to Virwani Industrial Estate,)
Goregaon (E), Mumbai 400 063)

..... Appellant**VERSUS**

1. Vilas Laxman Bangar,)
Age 45 years, Occ. Business)

2. Sanjivani Vilas Bangar,)
Age 42 years, Occ. Household)
Both R/o. B-26, Room No.4,)
State Bank Colony, Sector – 13,)
Nerul, Navi Mumbai)

3. Deepak Damodar Sabale,)
Adult, Occ. Business)
R/o. Block No.107, 1st Floor, OB-2,)
Poonam Nagar, Chakala, M.I.D.C.,)
Andheri (East), Mumbai – 400 093)

..... Respondents

Ms. Poonam Mittal Advocate for the Appellant.

Mr.T.J.Mendon for the Respondent nos. 1 and 2.

CORAM : R.D. DHANUKA, J.

DATE : 5th DECEMBER, 2019

JUDGMENT :

By this First Appeal filed under section 173 of the Motor Vehicle Act, 1988, the appellant (original opponent no.2) has impugned the judgment and award dated 21st April,2016 passed by the Motor Accident Claim Tribunal at Alibag in M.A.C.P. No.181 of 2010 thereby allowing some of the claims made by the respondent nos. 1 and 2 (original applicants) and directing the appellant and the original opponent no.1 to pay a sum of Rs.17,45,000/- with interest at the rate

of 7% per annum from the date of application till realization.

2. Learned counsel for the appellant and the respondent nos. 1 and 2 jointly state that in accordance with the principles of law laid down by the Supreme Court and this court in various judgments, the revised compensation which can be awarded to the respondent nos. 1 and 2 can be modified to Rs.17,30,000/- with interest as awarded by the Tribunal under the following heads. Some of the relevant facts for the purpose of deciding this appeal are as under :-

3. The respondent nos. 1 and 2 are the parents of the deceased Mr.Nikhil Vilas Bangar who was 19 years old at the time of accident and expired on 8th March,2010 when he was proceeding towards Thane on motor cycle. When his motor cycle reached at Thana Naka, Panvel, opposite Garden Hotel, one Indica car coming from its opposite side gave dash to the said motor cycle. The said Mr.Nikhil Vilas Bangar had sustained multiple injuries and died on the spot. The respondent nos. 1 and 2 filed an application for compensation in the sum of Rs.10,00,000/- before the MACT. The original opponent no.1 did not file the written statement. The claim of the respondent nos. 1 and 2 was resisted by the appellant by filing a written statement. M.A.C.T. passed a judgment and award dated 21st April,2016 directing the appellant and the original opponent no.1 jointly and severally to pay an amount of Rs.17,45,000/- to the respondent nos. 1 and 2 (original applicants) with interest at the rate of 7% per annum from the date of application till realization. Being aggrieved by the said judgment and award dated 21st April,2016, the appellant filed this appeal under section 173 of the Motor Vehicle Act, 1988.

4. Learned counsel for the appellant and the respondent nos. 1 and 2 jointly tendered a statement of computation of the compensation and would submit that according to the principles of law laid down by the various judgments, the respondent nos. 1 and 2 would be entitled to compensation of Rs.17,30,000/- instead of Rs.17,45,000/- and would submit that this court may reduce the said amount to Rs.17,30,000/- and may award interest thereon as awarded by the Tribunal. Both the learned counsel state that in view of this position, this court is not required to record any reason. Statement is accepted.

5. Learned counsel for the parties state that the respondent nos. 1 and 2 are entitled to Rs.60,000/- (Rs.5,000/- x 20) towards half dependency, 50% towards future prospects in the sum of Rs.30,000/-. Both the parties agree that the said sum of Rs.90,000/- has to be applied multiplier of 18 in view of the age of the deceased being 19 years at the time of his death which came to Rs.16,20,000/-. Both the parties jointly and severally state that the respondent nos. 1 and 2 would be also entitled to Rs.15,000/- towards loss to estate, Rs.15,000/- towards funeral expenses and Rs.80,000/- towards filial consortium at the rate of Rs.40,000/- each which came to Rs.17,30,000/-.

6. I, therefore, pass the following order :-

(a) The respondent nos. 1 and 2 would be entitled to receive compensation in the sum of Rs.17,30,000/- with interest at the rate of 7% p.a. awarded.

(b) The impugned judgment and award dated 21st April, 2016 is modified to this extent.

(c) The respondent nos. 1 and 2 would be entitled to withdraw the entire amount deposited by the appellant with the Tribunal if not withdrawn so far with accrued interest if any.

(d) Office is directed to transmit a statutory deposit of Rs. 25,000/- to the M.A.C.T., Alibag, Raigad expeditiously.

(e) If there is any shortfall in the recovery of the decretal amount, the appellant would deposit the balance amount with the executing court within two weeks from the date of such computation.

(f) If there is any surplus amount left after making payment of the decretal amount to the respondent nos.1 and 2, the same shall be returned to the appellant.

7. First appeal is disposed of in the aforesaid terms. No order as to costs.

8. In view of the disposal of the first appeal, interim application does not survive and is accordingly disposed of.

9. The parties as well as M.A.C.T., Alibag, Raigad to act on the authenticated copy of this order.

(R.D.DHANUKA, J.)