IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.279 OF 2014

Reliance General Insurnce Company Ltd. ...Appellant

Versus

Mathew Sebastian Almeida and Ors. ...Respondents

.....

Mr. Rahul Mehta i/b. M/s. KMC Legal Venture for the Appellant.
Mr. Shriram S. Redij for the Respondent Nos.1 and 2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 26TH JUNE, 2019.

P.C.:-

At the outset, the learned counsel for the Respondent Nos.1 and 2 states that these Respondents do not wish to file any cross objection /cross appeal.

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

3. The Appellant-Insurance Company has challenged the judgment dated 16/7/2011 in M.A.C.P. No.162 of 2018 passed by the M.A.C.T., Thane. By the impugned judgment and award Claims Tribunal has awarded compensation of Rs.2,60,000/- with interest at

the rate of 7% p.a. from the date of the petition till final realisation.

4. The Respondent Nos.1 and 2 are the parents of the deceaased -Larsen, who expired as a result of injuries sustained in motorvehicular accident on 29/1/2008 involving a motor dumper bearing MH-04-DD-2487. The said motor dumper was owned by the Respondent No.3 and insured by the Appellant-Insurance Company. The Respondent Nos.1 and 2 therefore filed a petition under Section 163 of the M.V. Act claiming compensation of Rs.2,92,500/-. The Claims Tribunal after appreciating the evience on record granted compensation of Rs.2,60,000/- with interest at the rate of 7% p.a. Being aggrieved by the quantum of compensation the Appellant-Insurance Company has filed this Appeal.

5. Order dated 20th August, 2014 indicates that the Appellant-Insurance Company has restricted challenge only on two points viz.(i) deduction of 1/3 towards personal expenses of deceased as against half and (ii) application of multiplier of 16 instead of 8.

6. I have heard the learned counsel for the Appellant-Insurance Company and the learned counsel for the Respondent Nos.1

and 2. Perused the records.

7. The records indicate that the deceased was 20 years of age. The Tribunal has considered the income of the deceased as Rs.2,000/- p.m. i.e. Rs.24,000/- per annum. The Trial Court has deducted 1/3 towards personal expenses of the deceased. In terms of Section 163 of the M.V. Act the insured is liable to pay compensation as indicated in second schedule. The second schedule provides for deduction of 1/3rd towards expenses of the victim towards his maintenance. Considering this fact in my considered view the Tribunal cannot be faulted for deducting 1/3rd share of compensation towards personal expenses of the deceased.

8. In ***National Insurance Corporation v/s. Pranay Sethi, (2017) 16 SCC 680*** the Apex Court held that it is the age of the deceased that should be the basis for applying the multiplier. In the instant case, the deceased was 20 years of age and the multiplier applicable is 16. The Tribunal has computed the compensation by applying multiplier of 16. Hence, there is no infirmity in the order.

9. Under the circumstances and in view of discussion supra,

the Appeal has no merits and is accordingly dismissed.

10. The statutory deposit be transferred to the Tribunal.

11. The Respondent Nos.1 and 2 are at liberty to file application before the Tribunal for withdrawal of the balance compensation alongwith interest accrued thereon.

(SMT. ANUJA PRABHUDESSAI, J.)