

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

FIRST APPEAL (STAMP) NO.31888 OF 2017

Shriram General Insurance Company Ltd. Appellant.

Versus

Shri Tukaram Sakharam Nikam & Ors. Respondents

.....
Mr. Rahul Mehta i/b KMC Legal Venture for Appellant.
Ms. Sushma Gor for Respondents.

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CORAM : K.K.TATED, J.
DATED : SEPTEMBER 24, 2019

P.C.

1 Not on board. By consent of both the parties, matter is taken on board for urgent orders:

2. By this First Appeal, the Appellant-Insurance Company is challenging the Judgment and award dated 16/01/2017 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 2113 of 2011 holding that the Respondents/ Original Claimants are entitled to sum of Rs. 3,14,000/- by way of compensation with interest @ 9% p.a.

3. The Learned Counsel for the Appellant submits that, they are challenging the Judgment and award of the Tribunal on the basis of the quantum. He submits that compensation awarded by the Tribunal is on higher side. He submits that, on

the date of accident the deceased was 55 years old and she was housewife. In spite of this the Tribunal awarded sum of Rs. 3,14,000/- by way of compensation. Hence, they have good chances of success in the present matter.

4. On the other hand, the Learned Counsel for the Respondents/Original Claimants vehemently opposed the present First Appeal. She submits that the Tribunal has considered minimum income of the deceased i.e. 3,000/- per month. Not only that from 3,000/- the Tribunal has deducted 1000/- to arrive an dependency. She submits that, the Tribunal has awarded sum of RS. 3,14,000/- by way of compensation which is reasonable amount. Therefore, there is no substance in the present First Appeal and the same is required to be dismissed with cost.

5. On the basis of submission made by both the parties issue arrived in the present First Appeal is “whether the compensation awarded by the Tribunal is on higher side”. It is to be noted that in the present proceeding, in accident which occurred on 28/03/2011, the Respondent/Original Claimant lost his mother/mother in law. On the date of accident, deceased was 55 years old. Because of the accident, the deceased sustained grievous injuries and therefore, she was admitted in hospital and because of the grievous injuries, she expired on 02/04/2011. Hence, the Respondents/Original Claimants filed application under Section 166 of the Motor Vehicles Act claiming the compensation of Rs. 3,00,000/-. The Tribunal at the time of calculating the income of the deceased

failed to consider that she was not doing anything. Hence, the Tribunal has considered the minimum income i.e. 3,000/- per month. From that 3,000/-, per month the Tribunal has awarded Rs. 1,000/- for deciding dependency of the Respondent/Original claimant. The Tribunal awarded sum of Rs. 3,14,000/-.

6. By considering these facts and the reasons given by the Tribunal in Para. 17 of the impugned Judgment, I am of the opinion that the compensation awarded by the Tribunal is reasonable. Hence, I do not find any substance in the present First Appeal. Hence, the following order:

a. First Appeal stands dismissed.

(K.K.TATED, J.)