

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

FIRST APPEAL NO.282 OF 2018

Poonam Pandurang Jangam & Ors.	..	Appellants
Vs.		
M.S.R.T.C. & Ors.	..	Respondents

Mr.S.S. Vidyarthi for the appellants.
Ms.Shalini Shankar for the respondent no.3.

CORAM : R.D.DHANUKA, J.
DATE : 2nd December 2019

P.C.:

. Mr.Vidyarthi, learned counsel for the appellants prays for dispensation of service upon the respondent nos.1 and 2. Statement is accepted. Service upon the respondent nos.1 and 2 is dispensed with in view of the issue of quantification of claim.

2. By this first appeal, the appellants have impugned the judgment and award dated 14th July 2017 passed by the MACT, Mumbai in MACP No.497 of 2011 for not allowing the compensation as claimed by the applicant or allowing the claims partly.

3. By consent of the appellant and the respondent no.3, first appeal is heard finally.

4. Learned counsel for the original applicant and the insurer agree that this Court need not record the reasons in so far principal amount is concerned. Learned counsel for the parties have tendered statement of computation of fair and reasonable compensation in the sum of Rs.9,42,000/- inclusive of net pecuniary loss, loss of spousal consortium, funeral, loss of estate and filial consortium to two children. Statement is taken on record and marked 'X' for identification.

5. Mr.Vidarthi, learned counsel for the appellants submits that the Tribunal has awarded interest @ 7.5% p.a. which is on lower side and seeks payment of interest @ 9% p.a. In support of this submission, he placed reliance on the following judgments of the Supreme Court :-

- (i) *Asha Verman & Ors. Vs. Maharaj Singh & Ors., reported in (2015) 11 SCC 389;*
- (ii) *Kalpanaraj & Ors. Vs. Tamil Nadu State Transport Corporation, reported in 2014 ACJ 1388;*
- (iii) *ICICI Lombard General Insurance Company Ltd. Vs.Ajay Kumar Mohanty & Anr., reported in (2018) 3 SCC 686;*
- (iv) *S. Manickam Vs. Metropolitan Transport Corporation Ltd., reported in 2013 ACJ 1935.*

6. Mr.Vidarthi, learned counsel for the appellants submits that various Courts have awarded interest @9% p.a. on the awarded compensation.

7. Ms. Shalini Shankar, learned counsel for the respondent no.3, on the other hand, submits that interest @ 7.5% p.a. awarded by the tribunal is fair and reasonable and thus shall not be enhanced to 9% p.a. She submits that in several judgments delivered by this Court and also by the Supreme Court, rate of interest awarded is @7.5% p.a. and not @9% p.a.

8. After considering the judgments relied upon by the learned counsel for the appellants awarding interest @9% p.a., I am inclined to accept the submission made by the learned counsel for the appellants that payment of rate of interest should be increased from @7.5% p.a. to @9% p.a.

9. I therefore pass the following order :-

- (i) The appellants would be entitled to recover compensation in the sum of Rs.9,42,000/- with interest @9% p.a. from the date of filing of claim application till realisation;
- (ii) The respondent no.3 would be entitled to deduct the amount paid from the total amount paid by the respondent no.3 to the appellants.
- (iii) It is made clear that since the respondent no.3 has computed interest @7.5% p.a. while depositing the amount, the appellants would be entitled to be paid additional interest @1.5% p.a. on the deficit amount.

(iv) It is also made clear that the appellants would be entitled to recover compensation @9% p.a interest from the date of filing of claim application upto the date of deposit on the enhanced amount.

10. In view of the aforesaid order, if there is any shortfall in recovering the amount by the appellants from the respondent no.3, the appellants would be at liberty to execute the decree in respect of the balance amount. If the executing Court finds any additional amount deposited by the appellants, the executing Court shall order to refund the said additional amount within four weeks from the date of such computation. Upon deposit of the additional amount, the appellants shall be permitted to withdraw the said amount on production of authenticated copy of this Court. First appeal is disposed of on aforesaid terms. No order as to costs. Parties as well as the executing Court to act on the authenticated copy of this order.

R.D.DHANUKA, J.