

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.39 OF 2017
WITH
CIVIL APPLICATION NO.220 OF 2017

United India Insurance Co. Ltd., Mumbai	 Appellant
V/s.	
Kamlesh Darbarilal Gupta and Ors.	 Respondents

ALONG WITH
CIVIL APPLICATION NO.220 OF 2017
IN
FIRST APPEAL NO.39 OF 2017

Kamlesh Darbarilal Gupta and Ors.	 Applicants
<i>In the matter between</i>	
United India Insurance Co. Ltd., Mumbai	 Appellant
<i>V/s.</i>	
Kamlesh Darbarilal Gupta and Ors.	 Respondents

Mr. Mehta, I/by M/s. KMC Legal Venture, for the Appellant.

Mr. Roshan S. Tanna for Respondent No.2.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 4TH FEBRUARY, 2019.

P.C. :

1. Heard learned counsel for the Appellant and for Respondent No.2.

2. This Appeal takes an exception to the 'Judgment and Order' dated 20th August 2016 passed by the Chairman, Motor Accident Claims

Tribunal, Thane, thereby awarding the compensation of Rs.24,80,000/- to the Respondents-Claimants including NFL amount of Rs.50,000/-, with interest @ 9% p.a. from the date of application till realization of the same.

3. The only submission advanced by learned counsel for the Appellant-Insurance Company, in which there is a substance, is that, as per the 'Judgment' of the Hon'ble Apex Court in the case of *National Insurance Co. Ltd. Vs. Pranay Sethi and Others*, 2017 ACJ 2700, the amount to be granted towards the future prospects, considering the age of the 'Deceased', is 40% and to that extent only, the interference is warranted in the impugned order to modify the amount of compensation.

4. Accordingly, if the income of the 'Deceased', as held by the Tribunal, is considered to be Rs.50,000/- per month and 40% thereof comes to the future prospects, it will be Rs.10,500/- per month x 12 months = Rs.1,26,000/- x Multiplicand of "18" comes to Rs.22,68,000/- + Rs.50,000/- towards 'Conventional Heads', 'Deceased' being unmarried; thus, the total sum comes to Rs.23,18,000/-; whereas, the Tribunal has awarded Rs.24,80,000/-.

5. The 'Award' is modified, accordingly, to the extent of compensation amount, to which Respondents-Claimants are held entitled, of

Rs.23,18,000/-; instead of Rs.24,80,000/-. Rest of the 'Award' of the Tribunal remains as it is.

6. The amount of Rs.25,000/- deposited in this Court towards 'Statutory Deposit', be transferred to the concerned Tribunal and the Appellant-Insurance Company is allowed to withdraw the said amount and also the balance amount, which they have deposited towards the decretal amount.

7. Appeal is allowed and disposed off in the above terms.

8. In view thereof, Civil Applications pending in the Appeal do not survive and the same stand disposed off as infructuous.

[DR. SHALINI PHANSALKAR-JOSHI, J.]