IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

C.A.F.No.2146 OF 2019 IN F.A. ST.NO.139 OF 2019
(Oriental Insurance Co. Ltd, Nagpur .vs. Sajju s/o. Ramlal Bhusum and Ors)

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr.Ms Shilpa Tapadia, Advocate h/f. A.M.Quazi, Advocate for the appellant/applicant.

CORAM : N. W. SAMBRE, J.
DATE : 4.10.2019.

Heard.

There is delay of 91 days in filing the appeal. For the cause cited, delay stands condoned. The application is allowed.

First Appeal St.No.139 of 2019

Heard learned Counsel for the appellant.

By the impugned Judgment, the Motor Accident Claims Tribunal has awarded compensation of Rs.4,83,600/- to the Complainant considering age of deceased as 18 years and notional income of Rs.3000/- p.m.

Learned Counsel for the appellant submits that the age of deceased should have been 15 instead of 18 as is reflected in the Post Mortem report i.e. Exh.41. As such, according to her, notional income should have been Rs.30,000/- p.a. and not Rs.36,000/- and that being so, the multiplier and the income is incorrectly applied.

Considered the submissions. It is not in dispute that the appellant/Insurance Company has not examined any witness on the merits of the matter. The deceased was working as a Cleaner on the offending vehicle. The appellant before this Court come out with a case that, in the Post Mortem report i.e. Exh.41, age of deceased is mentioned as 15. She would further urge that since the Post Mortem report is accepted, it is the claimants who are required to demonstrate that the age of deceased was not 15, but 18.

As far as aforesaid issue is concerned, admittedly the appellant has not lead any evidence to discharge the onus so as to prove that the age disclosed in the Claim Petition as of 18 years is incorrect. Apart from above, it was never case of the appellant before the Court below.

The submission that the notional income is incorrectly considered as Rs.3,000/- i.e. Rs.36,000/- p.a.; instead it should have been Rs.30,000/- p.a., in view of above observations, is also liable to be rejected.

Apart from above, there is no substance or any material warranting interference. The appeal fails and hence, stands dismissed.

The appellant/Insurance Company

shall deposit entire amount of compensation with the Claims Tribunal within a period of twelve weeks.

JUDGE

jaiswal