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

First Appeal No.354/2019

Reliance General Insurance Co. Ltd. Vs. Zarina Begum and others

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. H.N. Verma, Advocate for appellant.
Mr. V.D. Muley, Advocate for respondents No.1 to 6.

CORAM : MANISH PITALE, J.

DATED : SEPTEMBER 03, 2019

The appellant insurance company has approached this Court challenging Judgment and order dated 05/06/2017, passed by the Motor Accident Claims Tribunal, Bhandara. The impugned Judgment and order is restricted to the question of quantum of compensation payable to the original claimants / respondents No.1 to 6.

2. In this case, the incident in question took place on 02/12/2010, in which the victim died and the respondents No.1 to 6 moved the claim application before the Tribunal. It was found that the deceased was a self employed person and, therefore, the Tribunal took into consideration Rs.6,000/- per month as his notional income and on that basis, the quantum of compensation payable to the respondents No.1 to 6

was worked out by the Tribunal under various heads in the following manner.

Monthly earning =	Rs.6000/-
Annual income Rs.6,000/- X 12 months =	Rs.72,000/-
Net earning per annum (Less 1/5th on account of personal and living expenses) =	Rs.57,000/-
Add 30% of Rs.57,600/- towards future prospects =	Rs.17,280/-
Net loss Rs.74,880/- X 11 (multiplier) =	**Rs.8,23,680/-**
Funeral expenses =	Rs.20,000/-
Loss of estate =	Rs.25,000/-
Consortium =	Rs.50,000/-
Transportation of dead body =	Rs.5000/-
Loss of love and affection =	Rs.25,000/-
Total amount of compensation =	**Rs.9,48,680/-**

3. The learned counsel for the appellant insurance company has relied upon the Judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and Ors. (Special Leave Petition (Civil) No.25590 of 2014), decided on 31/10/2017** by the Constitution Bench of the Hon'ble Supreme Court. It is pointed out that the addition of 30% granted by the Tribunal towards future prospects was much higher than what has been laid down by the Hon'ble Supreme Court in the aforesaid Judgment and further that the quantum of compensation under the heads for the funeral expenses, loss of estate and loss of consortium along

with other minor heads is also on the higher side.

4. A perusal of the quantum of compensation granted by the Tribunal in the present case indeed shows that the amounts granted under the aforesaid heads are on the higher side and even addition towards future prospects is also on the higher side.

5. Therefore, the impugned Judgment and order of the Tribunal needs to be modified, to be brought in tune with the law as per the position laid down in the aforesaid Judgment.

6. The learned counsel for the respondents No.1 to 6 (claimants), is unable to dispute the position of law as pointed out by the learned counsel for the appellant.

7. In the light of the above, the appeal is partly allowed and the impugned Judgment and order passed by the Tribunal is modified to the extent that the addition towards future prospects would at 10%, instead of 30% and that the quantum of compensation payable for funeral expenses shall be Rs.15000/-, for loss of estate it shall be Rs.15,000/-, for loss of consortium it shall be Rs.40,000/- and that the amounts granted towards transportation of the dead body and loss of love and affection awarded by the Tribunal stand quashed and set aside. The other

aspects of quantum of compensation granted by the Tribunal towards notional income at Rs.6000/- per month and the application of multiplier are left undisturbed.

8. Accordingly, the appellant insurance company shall prepare a calculation sheet to quantify the amount of compensation now payable to the respondents No.1 to 6 in terms of this order within a period of 2 weeks before the Registrar (Judicial).

9. Since the the appellant insurance company had already deposited the entire amount of compensation payable as per the impugned Judgment and order and the respondents No.1 to 6 have withdrawn 50% of the said amount as per permission granted by this Court, the amount now payable to the respondents No.1 to 6 and their entitlement towards withdrawal of amount shall be worked out before the Registrar (Judicial) by the parties within a period of 4 weeks from today.

10. The respondents No.1 to 6 shall be entitled to withdraw the amount that is finally payable to them, along with accrued interest.

11. Needless to say, the balance amount in excess lying in this Court shall be disbursed to the appellant insurance company, including accrued

interest, if any. The appellant insurance company shall be permitted to withdraw the statutory deposit. Appeal is disposed of in above terms with no order as to costs.

JUDGE

MP Deshpande