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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.219 OF 2012

The Oriental Insurance Co. Ltd.	...Appellant
V/s.	
Ms.Puja S. Jadhav & Ors.	...Respondents

Ms.Anita A. Agarwal for the Appellant.

Mr.Rohan Mahadik with Ms.Roshni M. Thakkar i/b The Juris Partners
for the Respondent Nos.1 and 2.

CORAM : R.D. DHANUKA, J.
DATE : 20TH FEBRUARY, 2020.

P.C. :-

1. By this appeal filed under section 173 of the Motor Vehicles Act, 1988 the appellant (original opponent no.3) has impugned the judgment and award dated 3rd September, 2011 passed by the Motor Accident Claims Tribunal, Pune in MACP No.1139 of 2005 allowing the claims made by the respondent nos.1 to 3 partly and directing the appellant and other two opponents to pay a sum of Rs.17,00,000/- including NFL amount of Rs.50,000/- with interest at the rate of 7% p.a. from the date of application till realization of the full amount.

2. The facts of this case are identical to the facts in First Appeal No.218 of 2012. By a separate order passed by this Court today the said First Appeal filed by the appellant has been dismissed.

3. Insofar this appeal is concerned, Mrs.Agarwal, learned counsel appearing for the appellant states that the Tribunal could not have awarded Rs.12,000/- per month as compensation though the respondent nos.1 to 3 had produced proof of payment of income tax in the range of Rs.449/- to Rs.710/-. The next submission of the learned counsel is that though the driver of the vehicle in which the said deceased was travelling was equally liable for negligence, the Tribunal has not awarded any claim against the driver of the said vehicle and directed the appellant to pay the entire amount.

4. Insofar as the first submission of the learned counsel for the appellant is concerned, a perusal of record indicates that it was proved by the witnesses examined by the respondent nos.1 to 3 that the said deceased was carrying on transport business, was cultivating the agricultural land, was serving as press reporter and was also serving as labour contractor. Considering all these aspects, the learned Tribunal has rightly awarded considering monthly income of Rs.12,000/- as against the claim of Rs.50,000/- p.m. to the respondent nos.1 and 3. In my view, such amount awarded by the Tribunal is just and reasonable considering the evidence produced by the respondent nos.1 to 3 before the Tribunal.

5. Insofar as the submission of the learned counsel for the appellant that the driver of the vehicle in which the said deceased was equally negligent is concerned, it is not in dispute that the appellant did not enter the witness box.

6. In my view there is no merit in this submission of the learned counsel appearing for the appellant. No other submissions are urged by the appellant for consideration of this Court.

7. I do not find any infirmity with the findings rendered by the Tribunal. The appeal is devoid of merits and is accordingly dismissed. The respondent nos.1 and 2 are entitled to recover the amount as per the judgment and award passed by the Tribunal on 3rd November, 2011 inclusive of interest from the amount deposited by the appellant before the M.A.C.T., Pune. If there is any short fall in the amount deposited by the appellant, the same shall be deposited by the appellant with the MACT, Pune within two weeks from the date of computation of such shortfall. If there is any surplus amount left after payment of the decretal amount to the respondent nos.1 and 2, the Tribunal shall refund the said amount to the appellant on production of an authenticated copy of this Court. Parties as well as M.A.C.T. to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)