

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****FIRST APPEAL NO. 864 OF 2015****ALONGWITH****CIVIL APPLICATION (ST) NO. 35082 OF 2018****IN****FIRST APPEAL NO. 864 OF 2015****ICICI Lombard General Insurance Co. Ltd. Appellant****VERSUS****Ramesh Jagannath Babar & Ors.****..... Respondents**

Mr.Rahul Mehta, i/b. M/s.KMC Legal Venture for the Appellant.

Ms.Anusha Amin, i/b. Mr.Sandesh D. Patil for the Respondent nos. 1 and 2.

Mr.Ramesh J. Babar - Respondent no.1 is present in court.

Ms.Shobha R. Babar – Respondent no.2 is present in court.

CORAM : R.D. DHANUKA, J.**DATE : 8th JANUARY, 2020****P.C.**

Civil application not on board. Taken on board.

2. By consent of parties, first appeal is heard finally at the admission stage. Some of the relevant facts for the purpose of deciding first appeal are as under :-

3. The appellant (original opponent no.1) has impugned the judgment and award dated 26th August, 2014 passed by the Additional Member, M.A.C.T., Pune directing the appellant and other two original opponents to pay compensation of Rs.15,62,000/- with interest.

4. The dispute in this appeal is regarding quantification amount awarded by the Tribunal. In paragraph (13) of the impugned judgment and award, the tribunal has awarded compensation under various heads in the sum of Rs.15,62,000/-.

5. Mr.Mehta, learned counsel for the appellant invited my attention to the quantification of compensation computed by the Tribunal in paragraph (13). It is submitted that 50% amount towards future prospects ought to have been first added to the monthly income and thereafter $\frac{1}{2}$ of that amount ought to have deducted towards personal expenses. He submits that if the said amount is computed correctly in the manner suggested by the appellant, the compensation would not be more than Rs.12,04,000/-. Learned counsel for the respondents does not dispute this submission of the learned counsel for the appellant. She has no objection if the amount awarded by the Tribunal is reduced to Rs.12,04,000/- with interest from the date of petition till realization. Statement is accepted.

6. In my view, Mr.Mehta is right in his submission that 50% towards future prospects ought to have added first to the monthly income and thereafter $\frac{1}{2}$ of the said amount ought to have deducted from the personal expenses. I, therefore, pass the following order :-

(a) The appellant is directed to pay compensation in the sum of Rs.12,04,000/- with interest at the rate of 7% p.a. including NFL amount from the date of petition till realization.

(b) The respondent nos. 1 and 2 would be entitled to

recover the said amount from the appellant out of the amount already deposited by the appellant before the M.A.C.T. less the amount already withdrawn. If there is any shortfall in recovering the decreetal amount to be computed by the M.A.C.T., the appellant shall deposit the said amount with the M.A.C.T., Pune within two weeks from the date of such computation of such shortfall. If there is any surplus amount, the same shall be refunded after making payment of the amount to the respondent nos. 1 and 2.

(c) The paragraph (3) of the impugned judgment and award dated 26th August, 2014 is set aside.

(d) The parties as well as the concerned M.A.C.T. to act on the authenticated copy of this order.

(e) The judgment and award dated 26th August, 2014 stands modified to this effect.

(f) First appeal is disposed of in the aforesaid terms. No order as to costs.

(f) In view of the disposal of the first appeal, Civil Application (St.) No.35082 of 2018 does not survive and is accordingly dismissed. No order as to costs.

(g) Office is directed to transmit the statutory deposit of Rs.25,000/- to the M.A.C.T., Pune expeditiously.

[R.D.DHANUKA, J.]