

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****FIRST APPEAL (ST) NO. 15235 OF 2017****ALONGWITH****CIVIL APPLICATION NO. 471 OF 2018****IN****FIRST APPEAL (ST) NO. 15235 OF 2017****The New India Assurance Co. Ltd.****..... Appellants/
Applicants****VERSUS****Kalpana Rajesh Sengar & Ors.****..... Respondents****ALONGWITH****FIRST APPEAL NO. 1059 OF 2017****ALONGWITH****CIVIL APPLICATION NO. 2956 OF 2017****IN****FIRST APPEAL NO. 1059 OF 2017****The New India Assurance Co. Ltd.****..... Appellants/
Applicants****VERSUS****Vinayak Rajaram Karande & Ors.****..... Respondents****Mr.Sandeep S. Jinsiwale for the Applicants/Appellants.**

Mr.Uday B. Nighot for the Respondent nos. 1 to 3 in
FAST/15235/2017 and for the Respondent nos. 1 to 4 in
FAT/1059/2017.

CORAM : R.D. DHANUKA, J.**DATE : 5th FEBRUARY, 2020****P.C.**

By these two appeals filed under section of 173 of the Motor Vehicles Act, the appellant (original opponent no.2) has impugned the judgment and award dated 9th November,2016 passed by the M.A.C.T.,

Pune directing the appellant and the opponent no.2 jointly and severally to pay compensation of Rs.20,69,000/- including interim compensation awarded under section 140 of the Motor Vehicles Act with cost and interest at the rate of 9% per annum from the date of the petition till realization of the entire amount to the applicants in First Appeal (St) No.15235 of 2017.

2. Insofar as First Appeal No.1059 of 2017 is concerned, the appellant has impugned the judgment and award dated 9th November, 2016 directing the appellant and opponent no.2 to jointly and severally pay the compensation of Rs.35,76,500/- including interim compensation awarded under section 140 of the Motor Vehicles Act along with cost and interest at the rate of 9% per annum from the date of the petition till realization of the entire amount to the respondent nos. 1 to 4. Since both these appeals arise out of the same accident and the issues involved are identical, by consent of parties both these appeals were heard together and are being disposed of by a common order.

3. In both these matters, the claimants had made claims for compensation arising out of the motor vehicle accident in respect of the deceased. The claim was resisted by the appellants by filing a written statement. The appellant did not lead any evidence before the tribunal. The claimants had examined a witness.

4. The only issue involved in these two matters is whether multiplier of 18 applied by the tribunal on the basis of the age of the deceased was in accordance with law or that the tribunal ought to have applied the multiplier on the basis of the age of the claimants. The

tribunal in the impugned judgment and award has applied the multiplier on the basis of the age of the deceased.

5. During the course of the arguments, Mr.Nighot, learned counsel appearing for the original claimants relied upon the judgment of Supreme Court in case of ***Joginder Singh and Anr. vs. ICICI Lombard General Insurance Company, AIR 2019 SC 3814*** and judgment of this court in case of ***The New India Assurance Co. Ltd. vs. Chanda Gowardhan Gomkade & Ors., 2019 ACJ 440*** and would submit that the multiplier has to be applied on the basis of the age of the deceased and not on the basis of the age of the claimants.

6. Supreme Court in case of ***Joginder Singh and Anr.***(supra) has held that the multiplier has to be applied on the basis of the age of the deceased and not on the age of the parents of the deceased. Similar view is taken by this court in case of ***The New India Assurance Co. Ltd.*** (supra). Both these judgments applies to the facts of this case. I am respectfully bound by these judgments.

7. Mr.Jinsiwale, learned counsel for the appellants could not distinguish these judgments strongly relied upon on Mr. Nighot learned counsel appearing for the original claimant.

8. No other arguments are urged by the learned counsel for the appellants.

9. I do not find any infirmity in the impugned judgment and award rendered by the tribunal. Both the First Appeals are devoid of merits and are accordingly dismissed. No order as to costs.

10. In view of the dismissal of the First Appeals, all pending civil applications, if any, do not survive and are accordingly disposed of.

11. In view of the dismissal of the First Appeals, the original claimants would be at liberty to withdraw the entire amount deposited by the appellant. If there is any shortfall in the amount deposited by the appellant, such shortfall amount shall be deposited by the appellant within two weeks from the date of computation of such shortfall by the MACT.

12. If there is any surplus amount found deposited by the appellants, such surplus amount shall be refunded to the appellant by the M.A.C.T.

13. The parties as well as the MACT to act on the authenticated copy of this order.

14. Office is directed to transmit the statutory deposit of Rs.25,000/- deposited by the appellant to the concerned MACT expeditiously.

[R.D.DHANUKA, J.]