

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.279 OF 2018

United India Insurance Company Limited ...Appellant

Versus

Mr.Shailendra Alias Shailesh Raghunath
Dhuwali & Anr. ...Respondents

.....
Mr.Rahul Mehta i/b. KMC Legal Venture for the Appellant.
Mr.Sainand Chaugule for Respondent No.1.

.....
CORAM: V.G.BISHT, J.
DATE: 29TH JANUARY, 2020

P.C.

1. Heard learned Counsel for both the parties.
2. Rule. Rule made returnable forthwith. By consent, the Appeal is heard finally at the stage of admission. Mr. Chaugule, learned Counsel waives service on behalf of respondent No.1.
3. This Appeal arises from the judgment and award dated 18th April, 2017 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai in Application No. 359 of 2009.

4. The facts of the present case are not delineated inasmuch as the controversy, which is fairly admitted by the learned Counsel for respondent No.1, is very limited one. Even otherwise, the factum of accident and negligence on the part of the offending vehicle are not disputed.

5. Mr.Mehta, learned Counsel for the appellant/ insurance company, took me through the various paragraphs of the impugned judgment and award and pointed out, more particularly, paragraph Nos. 18 and 19 of the impugned judgment and award wherein the learned Member not only granted an amount of Rs. 50,000/- towards loss of amenities of life but then again in paragraph No. 19 granted an amount of Rs. 50,000/- towards future loss of income. According to the learned Counsel, this is nothing but taxing the insurance company doubly on the same count.

6. Mr.Chaugule, learned Counsel for respondent No.1, on the other hand, fairly accepted the mistake committed by the learned Member and urged that the said mistake may be rectified appropriately.

7. On going through the impugned judgment and award, the learned Member granted compensation, which is as under :

Sr. No.	Particulars	Amount (Rs.)
1.	Income Actual Loss of Income 5000 X 6 months	30,000/-
2.	Medical Bills	1,43,634/-
3.	Disability	4,00,000/-
4.	Pain and Suffering	25,000/-
5.	Special Diet and Conveyance	10,000/-
6.	Loss of Amenities of Life	50,000/-
7.	Future loss of income	50,000/-
	Total:	7,08,634/-

8. It is apparent from the tabulation of the amounts awarded by the learned Member that an amount of Rs. 50,000/- has been given twice for one and the same cause i.e., loss of amenities of life and future loss of income.

9. The learned Member could not have done so inasmuch as he had already granted Rs. 50,000/- for loss of amenities of life. There was no question for learned Member to have again granted Rs. 50,000/- towards future loss of income. To that extent the amount so awarded on the count of future loss of income will have

to be subtracted. After doing so, the total amount would work out to Rs. 6,58,864/-.

10. In view of above, the appellant/ insurance company is therefore liable to pay only Rs. 6,58,864/- along with interest as awarded by the learned Member to respondent No.1/ original claimant.

11. Rule is disposed of in the aforesaid terms. No costs.

(V.G.BISHT, J.)