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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.60 OF 2019
WITH
CIVIL APPLICATION (STAMP) NO.33918 OF 2018

Reliance General Insurance Co. Ltd.	...Appellant
V/s.	
Deepak B. Thorat & Ors.	...Respondents

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

Ms.Varsha Chavan for the Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 25TH FEBRUARY, 2020.

P.C. :-

1. The papers are allowed to be produced at 3.00 p.m.
2. By this First Appeal filed under section 173 of the Motor Vehicles Act, 1988, the appellant (original insurer) has impugned the judgment and award dated 31st March, 2018 passed by the M.A.C.T., Mumbai allowing the claims partly made by the respondent no.1 and directing the appellant and the opposite party to pay a sum of Rs.13,00,000/- with interest at the rate of 8% p.a. from the date of the application till realization. By consent of the appellant and the respondent no.1, the First Appeal is heard finally at the admission stage.
3. The respondent no.1 was running a photo studio. On 3rd

May, 2014, he was proceeding on motor cycle to attend an order of Video shooting. While he was on Western Express Highway reached on the bridge in front of Mahindra Company, Kandivali (East), Mumbai, Auto rickshaw bearing registration No.MH-02 CE 419 came from behind driven in speed rashly and negligently and gave dash to him. He fell on the road and sustained head injury and injury to leg. He made the claim before the M.A.C.T., Mumbai for an amount of Rs.50,00,000/- with interest and costs. The said claim was resisted by the appellant by filing a written statement.

4. The Tribunal framed five issues. The respondent no.1 entered the witness box. The appellant however, did not examine any witness.

5. Though the appellant has raised number of grounds in the First Appeal. Mr.Mehta, learned counsel appearing for the appellant more particularly press the ground on the basis of the relief granted in paragraph 27 of the impugned judgment and award. The Tribunal awarded compensation in the sum of Rs.1,00,000/- towards loss of amenities of life without any evidence.

6. Ms.Chavan, learned counsel appearing for the respondent no.1 on the other hand submits that each and every heads of compensation awarded by the Tribunal is in compliance with the principles laid down by various judgments of the Supreme Court referred to in the said judgment and award rendered by the

Tribunal. However, she submits that insofar as the claim of Rs.1,00,000/- towards loss of amenities of life is concerned, she has no objection if the said amount is reduced to Rs.50,000/-. She tendered a chart and would submit that after reducing the said amount of compensation from Rs.1,00,000/- to Rs.50,000/- towards loss of amenities of life, the respondent no.1 would be entitled to recover a sum of Rs.12,55,200/- from the appellant.

7. Insofar as loss of amenities of life is concerned, since the learned counsel for the respondent no.1 has fairly agreed to the reduction of the said amount of Rs.1,00,000/- to Rs.50,000/-, that part of the judgment and award is accordingly modified.

8. No other submissions are urged by the learned counsel for the appellant. The appeal is devoid of merit except to the extent of the amount of loss of amenities of life awarded by the Tribunal which is reduced from Rs.1,00,000/- to Rs.50,000/-.

9. I, therefore, pass the following order :-

a). The impugned judgment and award dated 31st March, 2018 passed by the M.A.C.T., Mumbai is substituted by the following order :

b). The respondent no.1 would be entitled to recover a sum of Rs.12,55,200/- from the appellant inclusive of NFL amount along

with interest at the rate of 8% from the date of application till realization. The respondent no.1 would be entitled to recover the entire decretal amount awarded by the M.A.C.T., Mumbai as modified by this order out of the amount deposited by the appellant.

c). If there is any short fall in recovering the decretal amount modified by this judgment, the appellant shall deposit the balance amount within two weeks from the date of such computation by the M.A.C.T. If there is any surplus amount left after payment of the decretal amount, the Tribunal shall refund the said amount to the appellant on production of an authenticated copy of this Court.

d). Office is directed to transmit the amount of Rs.25,000/- deposited by the appellant as and by way of statutory deposit to the M.A.C.T., Mumbai expeditiously.

e). In view of disposal of the First Appeal, Interim Application filed by the respondent no.1 for withdrawal of the amount does not survive and is accordingly disposed.

f). All parties as well as the M.A.C.T., Mumbai to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)