IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.788 OF 2007

The New India Insurance Co. Ltd. ..Appellant

Vs.

1. Hemlata w/o. Balkrishna Kudal
2. Vijay Balkrishna Kudal
3. Dattatraya Pandharinath Kudal
4. Pandharinath Jaggnath Kudal

*(As per Court's order dtd.28.07.2009 appeal abated against respondent no.3 and respondent no.4 shown as dead)*

5. Lata Ashok Hiwale
6. Geetaram Suryabhan Gore ..Respondents

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Mr.S.G.Chapalgaonkar, Advocate for appellant
Mr.V.R.Autade, Advocate for respondent nos.1 and 2
Appeal abated against respondent nos.3 and 4
Mr.R.A.Tambe, Advocate for respondent no.5

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CORAM : R.G. AVACHAT, J.
DATE : DECEMBER 08, 2021

ORAL JUDGMENT :-

Heard.

2. This is an insurance company's appeal taking exception to the judgment and award dated 26.02.2007 passed by the Motor Accident Claims Tribunal, Shrirampur, in Motor Accident Claim Petition No.200 of 2002. The Tribunal granted compensation of Rs.7,54,220/-

on account of death in vehicular accident. The challenge is mainly on the ground of validity of the driving licence and quantum of as well.

3. Learned counsel for the appellant – insurance company would submit that the amount of compensation awarded is very much on higher side. The driver of the offending vehicle did not hold a valid and effecting driving licence at the relevant time. According to learned counsel, multiplier of 14 instead of 15, should have been applied since the deceased was 43 years of age. He, therefore, urged for scaling down the amount of compensation awarded and also urged for either exonerating the insurance company from payment of compensation or directing it to pay and then recover the amount from the owner of the vehicle.

4. Learned counsel for the respondent/claimants would, on the other hand, submit that it is a fit case for enhancement of compensation since nothing has been awarded towards future prospects and under conventional heads as well.

5. Considered the rival submissions. Learned counsel for the appellant-insurance company submitted that wrong multiplier

has been applied. He may be correct but the fact is that the Tribunal has not granted anything towards future prospects. The respondents/claimants are, therefore, entitled to defend the quantum of compensation on the ground that the Tribunal ought to have considered the future prospects and conventional heads as well. As such, even if the contention of learned counsel for the appellant-insurance company that wrong multiplier has been applied, is accepted, there would be no change in the quantum of compensation granted by the Tribunal.

6. As regards the driving license, it is submitted that it is difficult to ascertain, whether it was a transport vehicle or light motor vehicle. Moreover, the policy of insurance could not be traced in the record of this file. As such, the appellant – insurance company failed to make out its points urged in the appeal.

7. In the result, the appeal fails. The same is dismissed.

8. The amount in deposit, if any, be paid to the respondents/claimants with interest accrued thereon, immediately.

[**R.G. AVACHAT, J.**]

KBP