IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 120 OF 2019

The New India Assurance Co. Ltd.
Through it's Divisional Manager, Aurangabad ..APPELLANT

VERSUS

Anita Ramesh Shinde and Others ..RESPONDENTS

....

Mr. A.S. Usmanpurkar, Advocate for appellant
Mr. A.S. Kulkarni, Advocate for respondent nos. 1 to 5

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CORAM : R.G. AVACHAT, J.
DATED : 09th DECEMBER, 2021

PER COURT :

1. This is insurance company's appeal taking exception to the judgment and award dated 17th January, 2018 in Motor Accident Claim Petition No. 88 of 2015 granting compensation of Rs.30,09,832/- on account of death in the vehicular accident. The challenge is merely on the ground of quantum.

2. Learned counsel for the appellant – insurance company would submit that the Tribunal has not taken into consideration the deduction towards professional tax. There are mistakes in calculations. The draft of the calculations, which is correct according to him, has been placed on record. He, therefore, urged for re-working out of compensation.

3. Learned counsel for the respondents – claimants would, on the other hand, submit that just and reasonable compensation has been awarded and there is no reason to interfere with it. He would further submit that Respondent Nos. 2 to 5 have been granted Rs.25,000/- each towards loss of love and affection instead of Rs.40,000/-. According to him the amount of compensation warrants enhancement.

4. Considered the rival submissions. It appears to be a case of miscalculations and even not taking into consideration deduction towards professional tax. The amount of compensation is, therefore, re-worked out as under :-

Sr. No.	Particulars		Amount
1.	Monthly salary of the deceased (Exh.30 – salary certificate)	17,750	
	Less : Professional Tax	200	17,550
2.	Annual income of the deceased (17,550 x 12)		2,10,600
3.	Plus : Since the deceased was 40+ and was in permanent service, 30% is added thereof towards future prospects	63,180	2,73,780
4.	Less : Since the dependents are five in number, 1/4th thereof to be deducted towards personal and living expenses	68,445	2,05,335
5.	Applying multiplier of 14		28,74,690
6.	Plus : Each of the claimants awarded Rs.40,000/- towards loss of love and affection	2,00,000	30,74,690
7.	Plus : Funeral expenses and loss of estate	30,000	31,04,690

This way, the total amount of compensation would come to Rs.31,04,690/-.

5. The aforesaid calculation indicates that the amount of compensation awarded by the Tribunal is somewhat less. Since the respondents/claimants have not preferred an appeal or cross objection for enhancement, there is no question of granting compensation more than what has been awarded by the Tribunal. As such, there is no reason for this Court to interfere with the impugned award. In the result, appeal fails. Same is, therefore, dismissed.

(R.G. AVACHAT, J.)

SSD