IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO. 07/2021

1. The New India Assurance Co. Limited,
through its Branch Manager, Amravati,
through its Regional Manager,
Regional Office, Dr. Ambedkar Bhavan,
MECL Premises, 4th Floor,
High Land Drive, Seminary Hills, Nagpur.
(Original respondent No. 3.)

...**APPELLANT**
(On R.A.)

// VERSUS //

1. Smt. Vanita Wd/o Rajendra Rautkar,
Aged about 46 years, Occ. Household,
(Original Petitioner No.1)

2. Ku. Krunali D/o. Rajendra Rautkar,
Aged about 27 years, Occ. Education,
(Original Petitioner No.2)

3. Ku. Poonam D/o Rajendra Rautkar,
Aged about 24 years, Occ. Education,
(Original Petitioner No.3.)

4. Devidas S/o Tukaramji Rautkar,
(Dead), Aged 79 years, Occ. Nil,
(Original Petitioner No. 4)
(Name of Respondent No. 4 is deleted.
(Amendment is carried out as per
Courts order dt. 16.12.2020)

All R/o. behind Lords Hotel,
Ganpati Nagar, MIDC Road, Amravati,
Tah. and Dist. Amravati.

5. R. J. Carriers,
   Prop. Jaswant D. Sharma,
   R/o. R-7, Vanmali House,
   Ajangaon, Tq. Shahapur, Thane,
   Bhiwandi.
   (Original Respondent No.2)

.... **RESPONDENTS**
(On R.A.)

Shri M. B. Joshi, Advocate for appellant.
Shri S. S. Alaspurkar, Advocate for respondent Nos. 1 to 3.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 17.02.2021

JUDGMENT

The appellant – Insurance Company has filed this appeal under Section 173 of the Motor Vehicles Act (for short 'M.V. Act') challenging the impugned judgment and award dated 06.12.2018 in Claim Petition No. 234/2015. By the impugned judgment and award, the Claims Tribunal has awarded compensation of Rs. 69,80,000/- with interest @ 8% per annum from the date of petition till final realization.

2. The respondent Nos.1 to 3 are the original Claimant Nos. 1 to 3 in Claim Petition No. 234/2015 filed under Section 166 of the M. V. Act and shall be hereinafter referred to as Claimants.

3. The Claimant No. 1 is the widow and Claimant Nos. 2 and 3 are the children of the deceased Rajendra Rautkar, who died in a motor vehicular accident on 30.05.2015 involving Tata Tankar bearing registration No. 04/GF-1548. The Claimants stated that the deceased was serving as an Assistant Health Officer and drawing salary of Rs. 48,000/- per month. The Claimants stated that the accident was caused due to rash and negligent driving of the driver of the offending vehicle. The Claimants therefore, filed an application under Section 166 of the M. V. Act claiming compensation of Rs. 75,00,000/- from the respondent No. 2 insured/owner and the appellant being the insurer of the offending vehicle.

4. The Tribunal after considering the evidence on record held that the accident was caused due to rash and negligent driving of the driver of the offending vehicle. The Tribunal held that the deceased was 49 years of age and that he was drawing salary of Rs. 51,083/- per month. The Tribunal after deducting the professional tax and income tax, considered the monthly income of the deceased as Rs. 51,000/-. The Tribunal deducted 1/3rd amount towards his personal expenses and added 30% towards future prospectus and upon applying multiplier of 13, the Tribunal computed loss of dependency at Rs. 68,95,200/-. The Tribunal also awarded compensation of

Rs. 70,000/- towards other conventional heads and thus awarded total compensation of Rs. 69,80,000/-.

5. The judgment is challenged solely on the ground that the Tribunal has not deducted provident fund while considering the net income of the deceased. Suffice it to say that the the only permissible deduction is the amount paid towards tax and any deduction other than tax amount cannot be reckoned with. This is the principle expounded in ***Mrs. Helen C. Rebellow and others Vs/ Maharashtra State Road Transport Corpn. and another, AIR 1998 SCC 3191*** *and* ***United India Insurance Co. Ltd. and others*** Vs. ***Patricia Jean Mahajan and others, (2002) 6 SCC 281.*** Hence the amount contributed towards Provident fund and LIC etc. cannot be deducted.

6. In view of above discussion, the appeal has no merits and is accordingly dismissed. The amount of compensation deposited by the Insurance Company be paid to the claimants as per the judgment and award of the Claims Tribunal.

(**SMT. ANUJA PRABHUDESSAI, J.)**

Gohane.