

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

FIRST APPEAL NO.972 OF 2020
WITH
CIVIL APPLICATION NO.5101 OF 2019
***IN* FA/972/2020**

Bharti AxA General Insurance Company Ltd.,
Through its Manager, Pune.

... Appellant

Versus

Deepali Sunil Ghavte and others.

... Respondents

...
Mr. S. S. Patil, Advocate for Appellant.

Mr. Ram B. Deshpande, Advocate for Respondent Nos.1 to 3.

Mr. Suresh S. Pidgewar, Advocate for Respondent No.4.

...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 22nd February, 2022.

ORDER:

. Heard finally at admission stage with consent of both the
sides.

2 Appellant/Bharti AxA General Insurance Company Limited
has preferred this appeal feeling aggrieved by the impugned judgment
and award dated 14th March, 2018 passed in MACP No.290 of 2014 by
the Member, MACT, Newasa, District Ahmednagar.

3 The appellant has challenged the quantum of compensation assessed by the Tribunal.

4 Heard Mr. S. S. Patil, learned counsel for appellant, Mr. Ram Deshpande, learned counsel for respondent Nos.1 to 3 and Mr. Suresh Pidgewar, learned counsel for respondent No.4.

5 Mr. Patil, learned counsel for appellant invited my attention to the impugned judgment and award and submitted that the Tribunal has accepted the income of the deceased at Rs.15,000/- per month by making guesswork. The monthly income accepted by the Tribunal is on higher side. There is no sufficient evidence on record to support such guesswork made by the Tribunal. He submitted that the compensation determined by the Tribunal is exorbitant and needs to be reduced. He submitted that the Tribunal has awarded interest at the rate of 9% per annum on the amount of compensation, which is also on higher side and it needs to be reduced.

6 Mr. Ram Deshpande, learned counsel for respondent Nos.1 to 3/original claimants supported the findings recorded by the Tribunal. He submitted that the Tribunal has considered the evidence on record and on that basis calculated the income of the deceased at Rs.15,000/- per month, which is infact on lower side. The deceased was a multifacet person doing milk business, looking after his

agricultural land, shop and running one hotel cum bar restaurant, which was taken on lease basis. The deceased was earning more than Rs.50,000/- per month. He submitted that the deceased has left behind widow, old aged mother and children. Now the widow is looking after the family. There is no need to reduce the amount of compensation awarded by the Tribunal, which cannot be said to be exorbitant. He, therefore, urged to dismiss the appeal.

7 Having regard to the submissions of the learned counsel for respective sides, I have gone through the impugned judgment and award passed in MACP No.290 of 2014 by the Member, MACT, Newasa, District Ahmednagar. On going through the impugned judgment, paragraph 8, which relates to occupation and income of the deceased, it is evident that the Tribunal has considered the evidence in a proper way. The Tribunal has also considered the point raised on behalf of the insurance company regarding short of evidence on the income of deceased from milk business. The Tribunal after taking into consideration the evidence on record coupled with attending circumstances and age of the deceased, seems to have assessed the compensation by accepting the income of the deceased at Rs.15,000/- per month, which cannot be said to be on higher side. I do not find much force in the submissions of the learned counsel for appellant.

8 The Motor Vehicles Act, 1988 is a social welfare legislation under which the compensation is provided by way of award to the people who sustain bodily injuries or get killed in the vehicular accident. Those people who sustain injuries or whose kith and kins are killed, are necessarily to be provided with such relief in a short span of time so that the procedural technicalities cannot be allowed to defeat the just purpose of the Act under which such compensation is to be paid to such claimants. Keeping in mind the object of the Act and the view taken by the Tribunal, I do not see any reason to interfere with the income of the deceased determined by the Tribunal and calculations of compensation having regard to the age of the deceased and the multiplier, which is applied. The findings recorded by the Tribunal need to be upheld without any sort of interference.

9 So far as the issue of awarding interest is concerned, Mr. Patil, learned counsel for appellant submitted that the Tribunal has awarded interest at the rate of 9% per annum on the amount of compensation, which is on higher side. I find little bit force in his submission. At the relevant point of time, the rate of interest for fixed deposits in nationalized banks was in the range of 7% to 8%. As such, rate of interest needs to be reduced from 9% to 8% per annum.

10 Mr. Deshpande, learned counsel for original claimants

rightly pointed out that the Tribunal has committed an error in awarding the interest from 8th November, 2014. He submitted that the original claimants are entitled to get interest from the date of filing of claim. He submitted that the claimants have filed the claim before the Tribunal on 12th July, 2012. Mr. Deshpande, learned counsel for original claimants therefore, urged to correct the award to that extent.

11 In the case of Smt. Chameli Wati and another Vs. Municipal Corporation of Delhi and others, reported in, (1986) 4 Supreme Court Cases 503, the Honourable Supreme Court has made it clear that the claimants are entitled to get the interest from the date of filing of claim petition. Certainly, the impugned award needs to be modified to that extent coupled with rate of interest.

12 Having regard to the above reasons and discussion, the appeal needs to be dismissed, however, with slight modification in the impugned award passed by the Tribunal to the extent of rate of interest and the entitlement from the date of filing of the claim. Hence, the following order is passed:

ORDER

- I. The appeal stands dismissed. However, the impugned judgment and award dated 14th March, 2018 passed in MACP No.290 of 2014 by the

Member, MACT, Newasa, District Ahmednagar, is hereby modified to the extent of interest and entitlement to get the interest as under:

The original claimants are entitled to get interest on the amount of compensation determined by the Tribunal at Rs.27,58,000/- (Rupees Twenty-Seven Lakhs and Fifty-Eight Thousand Only) with interest at the rate of 8% per annum from the date of filing of claim i.e. 12th July, 2012 till the realization of the entire amount.

- II. The rest of the award passed by the Tribunal is hereby confirmed.
- III. No order as to costs.
- IV. Award be modified accordingly.
- V. The appeal is disposed of in above terms.
- VI. Record and proceedings be sent back to the Tribunal.
- VII. Civil Application No.5101 of 2019 also stands disposed of.

[SHRIKANT D. KULKARNI, J.]