SAP

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1237 OF 2017
WITH
INTERIM APPLICATION NO.501 OF 2020

Reliance General Insurance Co. Ltd. Appellant/ …Applicant

V/s.

Sadik Usuf Jamadar and Anr. … Respondents

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

Ms. Kavita Shinde i/b. Mr. Ashok B. Tajne, Advocate for the Respondent no.1.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 7, 2023

P.C.:

1. The appeal is by the Insurance Company challenging the judgment and award dated 7th April, 2017 in M.A.C.P. No.156 of 2014. By the impugned award, the Insurance Company and the owner have been directed to pay amount of Rs.25,00,000/- (Rs.Twenty Five Lacs Only) with interest at the rate of 9% per anum.

2. Learned Advocate for the Insurance Company submitted that the findings as to issue no.2 is perverse, as the Court has not considered the objection in relation to the insurance of the vehicle.

3. On perusal of paragraph no.8 of the Judgment, it appears that the Insurance Company has failed to lead evidence to show that the vehicle was not insured on the date of accident. Therefore, in my opinion, the finding recorded on issue no.2 is legal and proper.

4. Learned Advocate for the Appellant thereafter submitted that the amount of future income granted to the claimant is based on incorrect appreciation of law. It is submitted that the learned Tribunal could not have allowed the claim of 50% of future income.

5. In view of judgment of the Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi** reported in (2017) 16 SCC 680, the said issue is no longer *res integra.* Said Constitutional Bench judgment of the Apex Court held that 50% of the future income is permissible. In view of the above reasons, in my opinion, the Tribunal was justified in granting compensation as has been directed in the operative part of the award.

6. There is no merit in the first appeal. The first appeal is, therefore, dismissed.

7. Resultantly, nothing survives in the civil application and the same stands disposed of.

8. The amount of Rs.25,000/- be transferred to the concerned Tribunal.

9. The claimants are permitted to withdraw the amount of compensation deposited by the Insurance Company along with accrued interest thereon.

(AMIT BORKAR, J.)