IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 542 OF 2018

Reliance General Insurance Company Ltd. .Original Appellant

Vs.

Smt. Aparna Ravindra Jadhav & ors. .Respondents

WITH
INTERIM APPLICATION NO. 12867 OF 2023
IN
FIRST APPEAL NO. 542 OF 2018

Smt. Aparna Ravindra Jadhav & ors. .Applicants

Vs.

Reliance General Insurance Company & ors. .Respondents

IN THE MATTER BETWEEN

Reliance General Insurance Company Ltd. .Original Appellant

Vs.

Smt. Aparna Ravindra Jadhav & ors. .Respondents

Mr. Rahul Mehta i/b. KMC Legal Venture, Advocate, for the Appellant – Insurance Company
None for the Respondents

CORAM : ANUJA PRABHUDESSAI, J.

DATE : 25.08.2023

P. C.

. This is an Appeal under Section 173 of the Motor Vehicles Act filed by the Insurance Company challenging the Judgment and Award dated 06.09.2017 in M. A. C. T. Application

No. 12 of 2014, M. A. C. T., Satara.

2. Respondent Nos. 1 to 5, who shall be referred to as 'the Claimants' had filed an Application under Section 166 of the Motor Vehicles Act, 1988 in view of the death of Mr. Ravindra Jadhav in a motor vehicle accident on 18.10.2013 involving Tata tempo 1109 bearing registration No. MH-14/DM-3433. The Claimants alleged that the accident was caused due to rash and negligent driving of the driver of the Tata tempo which was insured by the Appellant herein. The deceased was 35 years of age and was employed as a Fleet Manager with Aarya Trans Solutions Private Limited. He was drawing salary of Rs. 15,000/- per month. The Claimants claimed that they were solely dependent on him and hence, filed a Petition claiming total compensation of Rs. 42,32,000/-.

3. The Appellant – Insurance Company claimed that the driver of the offending vehicle did not possess a valid and effective driving license and hence, disputed its liability to indemnify the insured for breach of terms and conditions of the policy. The Appellant – Insurance Company also disputed the age and income of the deceased and asserted that the compensation claimed by the Claimants is exorbitant.

4. The Tribunal upon considering the evidence adduced by the Claimants held that the accident was caused due to rash & negligent driving by the driver of the offending vehicle. Learned Judge further held that the Insurance Company has failed to prove breach of terms and conditions of the policy and hence, it cannot be absolved of its liability of indemnifying the insured.

5. The deceased was 35 years of age and earning Rs. 15,000/- per month. The Tribunal deducted Rs. 200/- per month towards professional tax and added 50% towards future prospects. Considering the number of dependents, the Tribunal deducted 1/4th income towards personal and other living expenses of the deceased and applying multiplier of 15, computed loss of dependency at Rs. 29,97,00/-. In addition, the Tribunal awarded compensation of Rs. 1,000/- towards loss of consortium, Rs. 20,000/- towards loss of love and affection, Rs. 25,000/- towards funeral expenses and Rs. 5,000/- towards loss of estate. The Tribunal, thus, awarded a total compensation of Rs. 31,47,000/-. Being aggrieved by the impugned Judgment, the Appellant – Insurance Company has filed this Appeal.

6. Mr. Mehta, learned counsel for the Appellant submits that the driver employed by the insured was not holding a valid and effective driving license and hence the Appellant – Insurance Company is not liable to indemnify the insured. He further submits that the compensation awarded by the Tribunal is not just and reasonable.

7. I have perused the record and submissions advanced by learned counsel for the Appellant.

8. The records indicate that the deceased – Ravindra Jadhav, who was 35 years of age had expired as a result of the injuries sustained by him in an accident. The Tribunal has held that the accident was caused due to rash and negligent driving by the driver of the offending vehicle. There is no challenge to the findings recorded on the issue of negligence.

9. The Appellant has disputed its liability to indemnify the insured on the ground of breach of terms and conditions of the policy. It is pertinent to note that the Appellant has not adduced any evidence to prove that the driver of the offending vehicle did not possess valid & effective driving license. In the absence of such evidence, the Insurance Company cannot be

absolved of its liability of indemnifying the insured.

10. As regards the quantum of compensation, the evidence of Aparna Ravindra Jadhav (CW1), Rahul Ankush Kadam (CW2) and Amar Mahadev Nikam (CW3) viz a viz salary slips at Exhs. 54 to 58 amply prove that the deceased was employed as a Fleet Manager with Aarya Trans Solutions Private Limited. He was earning Rs. 15,000/- per month. Upon deducting Rs. 200/- per month towards professional tax, income of the deceased was Rs. 14,800/- per month. He was a permanent employee and was 35 years of age. Adding 50% of the actual salary towards future prospectus in terms of the Judgment of the Apex Court in the case of ***National Insurance Co. Ltd. Vs. Pranay Sethi & ors.***, reported in ***SLP Civil No. 25590 of 2014,*** the income works out to Rs. 22,200/- per month i. e. Rs. 2,66,400/- per annum. Considering the number of dependents, the learned Judge has rightly deducted ¼th income towards personal expenses of the deceased and upon applying multiplier of 15, loss of dependency as been computed at Rs. 2,99,700/- which is as per the settled norms.

11. It is to be noted that compensation awarded by the Tribunal on the conventional heads is not in accordance with the

principles laid down in ***National Insurance Co. Ltd. Vs. Pranay Sethi & ors***, reported in ***SLP Civil No. 25590 of 2014*** and ***Magma General Insurance Co. Ltd. Vs. Nanu Alias Chuhru Ram***, reported in ***(2018) 18 SCC 120***. In terms of the principles laid down by the Apex Court, the widow, the two minor children and the aged parents are entitled for compensation of Rs. 44,000/- each towards loss of spousal, parental and filial consortium. In addition, the claimants are entitled for compensation of Rs. 16,500/- towards funeral expenses and Rs. 16,500/- towards loss of estate. These claimants are, thus, entitled for compensation of Rs. 2,53,500/- on conventional heads. The claimants are, thus, entitled for total compensation of Rs. 32,50,000/- as against compensation of Rs. 31,47,000/- awarded by the Tribunal.

12. It is well settled that in an Application under Section 166 M. V. Act, the Court is under an obligation to award just and reasonable compensation. The claimants cannot be deprived of just compensation for want of cross-appeal or cross-objection. Reliance is placed on the decision of the Apex Court in the case of ***A.P.S.R.T.C. Rep. by its General Manager and anr. V/s. M. Ramadevi and ors. 2008(1) T. A.C. 714 (S.C.)***, wherein the Apex Court while considering the question whether the High Court

could have enhanced the compensation in the absence of an appeal by the claimant, reiterated the principles in ***Nagappa v/s. Gurdial Singh and ors. 2003(2) SCC 274*** that under Motor Vehicles Act there is no restriction that the Tribunal Court cannot award compensation amount exceeding the claimed amount.

13. Under the circumstances, the Appeal is dismissed. The claimants are held to be entitled for enhanced compensation of Rs. 32,50,000/- with interest at the rate of Rs. 7.5/% per annum. The Insurance Company to deposit the balance amount of Rs. 1,03,000/- before the Tribunal within a period of six weeks from the date of the order with interest at the rate of 7.5% p. a. from the date of the Petition till final realization.

14. Statutory deposit be transferred to the Claims Tribunal, Satara.

15. Interim Application stands disposed of in view of dismissal of Appeal.

(ANUJA PRABHUDESSAI, J.)