

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1365 OF 2019

The New India Assurance Co. Ltd }
Chembur D.O. No.141700, Carishma }
Centre, 2nd Floor, 19th Road, }
Chembur, Mumbai-400 009 }
Thr. TP-Hub-41-B, 4th Floor, }
Make Tower E, Cufee Parade, }
Mumbai-400 005. }

...Appellant

Versus

1. Shri.Kamlaprasad Jagdish Singh }
2. Mrs.Anita Kamlaprasad Singh }
Both R/at Building No.R/13, 12C, }
New Navy Nagar, Colaba, Mumbai- }
400 005. }

3. Mrs.Madhuri R. Mishra }
10, Loha Bhavan, P.D. Mello Road, }
Mumbai-400 009. }

...Respondents

Ms.Poonam Mital, for the Appellant.
Mr.T.J. Mendon, for Respondent Nos.1 & 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29 MARCH 2023

JUDGMENT :-

. The issue involved in this Appeal is excessive and
exorbitant compensation awarded by the Tribunal.

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2. It is contention of the learned counsel for the Appellant-Insurance Company that the Tribunal has awarded Rs.1 Lakh for loss of estate and Rs.1 Lakh for love and affection. There are two Claimants. They are entitled Rs.40,000/- each as consortium amount, Rs.15,000/- for loss of estate and Rs.15,000/- for funeral expenses. Hence, requested to allow the Appeal.

3. The learned counsel for the Respondent-Claimants submits that after considering all the aspects the Tribunal has awarded compensation, which is proper. Hence, no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Mumbai (for short 'the Tribunal').

5. The Tribunal has awarded Rs.10,000/- for funeral expenses, Rs.1 lakh for loss of estate and Rs.1 lakh for loss of love and affection. Total comes to Rs.2,10,000/-. As per the view of Hon'ble Apex Court in case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram***¹, each Claimant is entitled for Rs.40,000/- as consortium amount, Rs.15,000/- for loss of estate and Rs.15,000/- for funeral expenses. There are two Claimants, they are entitled Rs.80,000/- as consortium amount. Total of it comes to

¹ 2018 ACJ 2782 (SC)

Rs.1,10,000/-, where as Tribunal has awarded Rs.2,10,000/-, so excess amount is of Rs.1 lakh. The Appellants are entitled for this amount.

6. In view of above I pass following order.

ORDER

- (i) Appeal is partly allowed.
- (ii) The Appellants are permitted to withdraw Rs.1 lakh along with accrued interest thereon out of deposited amount.
- (iii) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. Parties are at liberty to withdraw it as per Rule.
- (iv) The Claimants are permitted to withdraw the remaining deposited amount along with accrued interest thereon.
- (v) All pending Civil Applications, if any, are disposed of.

(SHIVKUMAR DIGE, J.)