

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

FIRST APPEAL NO. 261 OF 2020

The United India Insurance Co. Ltd.

Having Office at: Pinak Galaxy, Kapurbawadi
Junction, Thane (W), Thane, Dist: Thane,
through Motor TP Claims Hub Regional
Officer-2, Mumbai Union Co-Operative
Insurance Building, 5th Floor, Sir P.M. Road,
Fort, Mumbai

....Appellant
(Orig. Opponent No.2)

Versus

1. Asha tilakraj Oberoi,
Aged about 57 years, Occ: Housewife
2. Tilakraj Oberoi
S/o. Chunilal @ Suilal Oberoi,
Age 63 years, Occ: Nil
Residing at : Sai Nagar Society,
Plot No.26, N-Wing, R. No. 302,
Sector-4, Kalamboli, Navi Mumbai
3. Bhairavnath Tours & Travels,
Proprietor: Subhash B. Wagh,
Ashirwad Apartment, Flat No. 402,
Sector, Sarsol. Nerul, Navi Mumbai-
400 706

....Respondents
(Respondent Nos. 1 to 2 are
are originalApplicant/
Claimants and Respondent
No.3 is the original Opp. No.2)

Mr. Sandeep Sharad Jinsiwale for the Appellant.
Ms. Rina Kundu for the Respondent Nos.1 & 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th DECEMBER, 2023.

Oral Judgment. :

1. The issues involved in this Appeal are wrong Application of multiplier and driver of offending vehicle was not holding effective and valid driving licence.

2. It is contention of learned counsel for the Appellant that while calculating compensation, the tribunal has considered the multiplier as per the age of deceased, it should have been as per the age of parents of the deceased, as the deceased was bachelor. Learned counsel further submitted that driver of the offending vehicle was holding driving licence of Light Motor Vehicle and he was driving transport vehicle but this fact is not considered by the tribunal. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the

Respondents/Claimants that it is settled position of law that multiplier should be applied as per the age of deceased. In respect of licence of offending vehicle, learned counsel relied on *Mukund Dewangan vs. Oriental Insurance Company Limited & Ors. (2016) 4 SCC 298* . Hence, requested to dismiss the appeal.

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

5. In respect of the issue of Application of wrong multiplier, while calculating the compensation the tribunal has applied multiplier as per the age of deceased. It is settled principle of law that while calculating compensation the multiplier should be applied as per the age of deceased and not the parents. Hence, I do not see merit in it.

6. In respect of issue of driving licence of driver of offending vehicle, it has come on record that at the time of accident, the driver was holding driving licence of LMV vehicle and he was driving transport vehicle. As per the view of Hon'ble Apex Court in the case

of *Mukund Dewangan vs. Oriental Insurance Company Limited & Ors. (2016) 4 SCC 298* . The driver holding LMV vehicle licence cannot be held ineligible, when he drives the transport vehicle.

7. In view of above, I pass following order.

ORDER

- i. Appeal is dismissed. No order as to costs.
 - ii. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. The statutory amount be transmitted to the tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
8. Pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)