IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 531 OF 2020

National Insurance Company Ltd.)
Mumbai Regional Office 3, 1st Floor,)
12, Jamshedji Tata Road,) ...Appellant
Churchgate, Mumbai : 400 001.) (Original. Opp. No.2)

Versus

1. Kamalbai Raghunath Korade)
   Age : 47, Occ:- Household)

2. Sanjay Raghunath Korade)
   Age : 27 Occ : Labourer)

3. Nilesh Raghunath Korade)
   Age : - 22 years, Occ:- Education)

4. Yogesh Raghunath Korade)
   Age : 20 years, Occ:- Nil.)

5. Rajesh Raghunath Korade)
   Age:- 18 years, Occ:- Education)

6. Rangubai Hari Korade)
   Age :- 70 years, Occ:- Household)
   Deleted vide order passed on Exh.1)
   In the MACT.)
   Respondent No.1 to 6, R/o:-)
   Near bricks Kiln, Niphad Road,)
   Pimpalgaon Baswant,)
   Tal:- Niphad, Dist:- Nashik.)

7. Omprakash Choturam Saini)
Age:- 40, Occ:- Business,)
R/o:- Haryana Gaon Isat,)
Now at Chinckhed Road,)
Premmoti Building,)
Room No.10, Pimpalgaon Baswant,)
Tal. Niphad, Dist: Nashik)
(Deleted as per order passed below)
Exh.1) in the MACT.)

8. Shishram,)
Age :- 50 years,)
R/o:- Post Box 6859/V/62/888834,)
Rivari District, Village Kuhadvas,)
Post:- Sahali, Tal: Buhana,)
Dist:- Zujnu, Rajasthan.) ….Respondents

Mr. Amol Gatne, Advocate for the Appellant.
Mr. Rahul Damodar Motkari, Advocate for the Respondent Nos.1 to 5.

CORAM : S. G. DIGE, J.

DATE : 8th FEBRUARY 2023.

Judgment :

1. The issue involved in this appeal is application of wrong multiplier and the income of the deceased.

2. It is contention of learned counsel for the appellant that

deceased was 53 years old but the Tribunal has considered multiplier of ‘13’ instead of ‘11’. Learned counsel further submits that the Tribunal has considered the gross salary of deceased at Rs.8238/- without deduction of income tax and professional tax. After deducting income tax and professional tax, the net salary of the deceased would be Rs.8063/-. Learned counsel for the appellant further submits that the Tribunal has considered 30% future prospects. As per the view of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC).*** it should be 15%, but these facts are not considered by the Tribunal. Hence, requested to allow the appeal.

3. Learned counsel for the respondents/claimants submits that the postmortem report shows the age of deceased as 50 years and, on that basis, the Tribunal has considered the multiplier of 13 which is proper. Learned counsel further submits that the salary certificate was produced before the Tribunal, on that basis, the Tribunal has considered the salary of the deceased, which is proper.

4. I have heard both learned counsel, perused the judgment and order passed by the Tribunal.

5. The issues involved in this appeal are application of wrong multiplier, income of deceased and determination of amount of future prospects.

6. The postmortem report shows the age of the deceased as 50 years, on that basis, the Tribunal has applied the multiplier of 13. There is no birth certificate produced on record to show the age of the deceased. The claimants in claim petition mentioned that the deceased was 53 year old. When the claimants admitted that the deceased was 53 year old, then, the Tribunal should not have considered the age of deceased as 50 years. Hence, I am considering the multiplier of 11, which is applicable for the age of 53 years.

7. In respect of salary of the deceased, the Tribunal has considered the gross salary of the deceased without deduction of income tax and professional tax. The salary certificate is at Exhibit - 38. After deducting professional tax, the net salary of the deceased come to Rs.8063/-. Hence, I am considering this salary as monthly income of the deceased.

8. The Tribunal has considered 30% as future prospects. The deceased was 53 year old and as per the view of the Apex Court in ***Pranay Sethi (Supra)***, it should be 15%. Hence, I am considering 15% towards future prospects.

9. Considering the above calculations, the claimants are entitled for following compensation:

Sr.No.	Title		Amount
1	Monthly Income	Rs.	8063.00
2	(+) Future Prospects		15%
3	Income	Rs.	9,273.00
4	Deduction (1/4th of Income)	Rs.	2318.00
5	Annual Income	Rs.	83,460.00
6	Multiplier (11) 83,460 x11	Rs.	9,18,060.00
7	Consortium	Rs.	1,50,000.00
8	Funeral Expenses	Rs.	25,000.00
9	**Entitled Compensation**	**Rs.**	**10,93,060.00**
	(rounded up)	**Rs.**	**10,93,100.00**
10	(Less) Compensation granted by the Tribunal	Rs.	14,28,000.00
11	**Difference**	**Rs.**	**3,34,900/-**

10. The Tribunal has awarded compensation of Rs.14,28,000/-. As per the calculations of this Court, the amount

comes to Rs.10,93,100/-. If this amount is deducted from the amount awarded by the Tribunal, it comes to Rs.3,34,900/-.

11. Both learned counsel submits that the claimants have withdrawn 50% amount, out of the deposited amount, along with proportionate interest accrued thereon.

12. In view of the above, I pass the following order :

1. The appeal is allowed.

2. The claimants are entitled for compensation of Rs.10,93,100/- @ 7% interest per annum from the date of filing of the claim petition till its realisation. The claimants are permitted to withdraw the said amount along with accrued interest thereon.

3. The appellant is permitted to withdraw the amount of Rs.3,34,900/- from the deposited amount along with accrued interest thereon.

4. The statutory amount of Rs.25,000/- be transmitted to the Tribunal. The parties are at liberty to withdraw it.

The appeal stands disposed of.

13. Pending applications, if any, stand disposed of.

(S. G. DIGE, J.)