2024:BHC-AUG:23416

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD

FIRST APPEAL NO. 1042 OF 2015

Sunanda Rameshchandra Ladda and Another APPELLANTS

VERSUS

HDFC Ergo General Insurance Co. Ltd. & Others RESPONDENTS

....

Mr. Pramod C. Mayure, Advocate for the appellants
Mr. Mohit R. Deshmukh, Advocate for respondent No.1
Mr. S. S. Patil, Advocate for respondent No. 5

....

FIRST APPEAL NO. 492 OF 2015

HDFC Ergo General Insurance Co. Ltd., APPELLANT

VERSUS

Sunanda Rameshchandra Ladda and Others RESPONDENTS

....

Mr. Mohit R. Deshmukh, Advocate for the appellant
Mr. P. C. Mayure, Advocate for respondents No.1 and 2
Mr. S. S. Patil, Advocate for respondent No. 6

....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 1st OCTOBER, 2024

ORDER :

1. Heard.

2. Admit.

3. Taken up for final hearing with the consent of the learned advocates for the appearing parties.

4. Claimants have filed First Appeal No. 1042 of 2015 for enhancement of compensation. HDFC Ergo General Insurance Company Ltd filed First Appeal No. 492 of 2015 challenging judgment and award dated 19th November, 2024 passed by Motor Accident Claims Tribunal, Aurangabad in MACP No. 247 of 2012.

5. Admittedly, First Appeal Nos. 494 of 2015, 490 of 2015 and 493 of 2015, filed by the Insurance Company, arising out of the same accident, are settled before National Lokadalat held on 11th February, 2023, as the Appellant Insurance Company has accepted the Award passed by the Tribunal.

6. First Appeal No. 492 of 2015 is filed by the Insurance Company raising the same grounds, which were raised in First Appeals No. 494 of 2015, 490 of 2015 and 493 of 2015. As in those matters, the Insurance Company has accepted the Award passed by the Tribunal, the Insurance Company cannot now challenge the same, when they have accepted the award passed in favour of the similarly situated claimants.

7. Learned advocate for claimants, by relying on ***"Ramachandrappa V/s Manager, Royal Sundaram Alliance Insurance Company Limited" (2011) 13 SCC 236*** submits

that the Tribunal has wrongly assessed notional income of the deceased at Rs.3,000/- per month. Considering the fact that the deceased was working as sales representative, his notional income needs to be assessed at Rs.4,500/- per month.

In ***Ramchandrappa*** (*supra*), the deceased was working as coolie and the Tribunal assessed his notional income at Rs.3,000/- per month. The Apex Court assessed at at Rs.4,500/- per month.

8. Learned advocates appearing for respondents No. 1 and 5, Insurance Companies, have strenuously opposed the appeal filed by the claimants stating that the Tribunal has rightly determined notional income of the deceased and has awarded just and fair compensation

9. In the case in hand, since the deceased was working as Sales Representative, in fact his notional income needs to be assessed at Rs.4,500/- per month. Since his age was 45 years, at the time of the accident, future prospects @ 25% need to be added. Monthly income of the deceased, therefore, comes to Rs.5,625/-. One third needs to be deducted from the same towards personal expenses. Considering these aspects, the claimants are entitled for the following compensation:

Sr. N.	Particulars	Amount
1	Monthly Income	4,500
2	Future Prospects @ 25%	1,125
3	Monthly income after adding future prospects	5,625
4	Less one third towards Personal Expenses	1,875/-
5	Monthly income after deduction (5,625 – 1875)	3,750
6	Annual Income	45,000
7	Multiplier of 14 (45,000 X 14)	6,30,000
8	Funeral Expense	16,500
9	Consortium	88,000
10	Loss of Estate	16,500
11	Total	7,51,000
12	Compensation granted by Tribunal	4,85,000
13	Enhanced Compensation	2,66,000

10. In the result, following order:

ORDER

A. First Appeal No. 1042 of 2015, filed by the claimants, is partly allowed with proportionate costs.

B. Claimants are held entitled for enhanced compensation of Rs.2,66,000/- along with 6% interest p.a. from the date of filing of the claim petition, till its realization.

C. Claimants shall pay additional Court fee, as per rules.

D. Respondent No. 1 (HDFC Ergo General Insurance Company Limited) and Respondent No. 5 (Bharti Axa General Insurance Company Limited) shall jointly and severally pay the amount of compensation and shall deposit the enhanced compensation amount in the Tribunal, along with interest, within 12 weeks from the date of uploading of this order.

E. First appeal No. 492 of 2015 filed by HDFC Ergo General Insurance Company Limited is dismissed.

F. In view of disposal of first appeal, pending civil application is also disposed of.

[NITIN B. SURYAWANSHI]
JUDGE

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