IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

952 FIRST APPEAL NO. 1824 OF 2014

United India Insurance Company Ltd.
...Appellate

VERSUS

1. Bablu Ramjan Khan,
2. Sahil Bablu Khan,
3. Niha Bablu Khan,
4. Rahil Bablu Khan,
5. Sufil Bablu Khan,
6. General Manager, Sangamner Taluka Sahakari Dudh Utpadak Sangh Ltd.
7. Vinayak Kanhu Navale.

...Respondents

...

Advocate for Appellant : Mr. Bagal Suraj R. For Appellant
Advocate for Respondents No.1 to 5 : Mr. S. K. Shinde
Advocate for Respondents No.6 and 7: Mr. R. L. Kute

...

WITH
CIVIL APPLICATION NO. 10509 OF 2014
IN FA/1824/2014

WITH
CIVIL APPLICATION NO. 10505 OF 2014
IN FA/1824/2014

....

CORAM : ARUN R. PEDNEKER, J.
Dated : August 09, 2024

ORAL ORDER :-

1. Heard learned Counsel for the parties.

2. Learned Counsel for Insurance Company challenges the impugned order on the ground that the driver of the insured vehicle was holding license only of a light weight motor vehicle. So also he submits that the

This order is corrected in view of the order of 'Speaking to the Minutes' dated 28/08/2024

Tribunal erred in computation of the compensation. It has not made 1/3rd deductions for personal expenses in the income of the deceased considering the dependents of the deceased. As regards first submission of the learned Counsel for applicant is concerned i.e. the driver only had light motor vehicle license, the same would be covered within the principle pay and recover, if the appellant substantiate his submissions before this Court at the final hearing stage.

3. As regard the computation is concerned, the total amount of compensation granted is Rs.8,27,500/- along with interest @ 8% per annum from the date of petition till Judgment and award dated 09/04/2014. Said amount is calculated as under : -

> "Rs.3000/- is computed as monthly income being a 'house-wife', multiplier of 17 is applied considering the of age of deceased as 30. The amount comes to Rs.Rs.6,12,000/-."

4. Learned Counsel submits that 1/3rd deduction is not applied to to the total income, and as such, applying the deduction of 1/3rd the computation is Rs.24,000 x 17 = 4,08,000. Perusal of the impugned order, it appears that total amount towards consortium is granted only Rs.40,000/-. In terms of the Judgment in case of ***National Insurance Company vs. Pranay Sethi and Others, reported in 2017 ACJ***

2700, *and* ***Magma General Insurance Company vs. Nanu Ram alias Chuhru Ram and others, reported in 2018 SCC Online SC 1546,*** the consortium has to Rs.40,000/- per dependent. In the instant case, there are five claimants, as such, the consortium comes to Rs.2,05,000/- excluding Rs.40,000/- already granted for the consortium. The computation thus would be worked out as Rs.2,05,000/- + 15,000/- towards funeral expenses, + Rs.15,000/- towards loss of estate + 1,75,360/- towards medical expenses. Computing the same, the total balance is worked out nearly the same comes to Rs.8,53,000/-

5. Considering the fact that there is no reduction in the amounts of compensation in the event the appeal is admitted. I deem it appropriate that the First Appeal would stand dismissed against the claimants and the appeal is admitted only against respondents No.6 and 7. The appeal is dismissed against respondents No.1 to 5.

6. All contentions of the respondents No.6 and 7 owners of the vehicle that the present case would not be covered within the principle of pay and recover as there is no proof that the driver was not holding license, would be decided at the stage of final hearing.

7. Balance amount deposited in this Court is directed to be sent to the Motor Accident Claim Tribunal, Sangamner in MACP No.122/2010.

Claimants are permitted to withdraw the same in terms of the apportionment as directed in the MACP.

8. Appeal stands dismissed against respondents No.1 to 5 and stands admitted against respondents No.6 and 7. Pending applications stand disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.

This order is corrected in view of the order of 'Speaking to the Minutes' dated 28/08/2024.