IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 506 OF 2018

L & T Insurance Co. Ltd. }
L & T House, N.M. Marg, }
Bay-Lord Estate, Mumbai-400 001 } **...Appellant**

Versus

1. Smt.Kamal Sandip Pawar }
Age-36 years, Occ: Household work, }
R/at Bhat-Marali, Taluka & District-Satara }

2. Mr.Akash Sandip Pawar }
Age-16 years, Occ: Education, }
R/at -Bhatmarali, Taluka & District-Satara }

3. Miss.Anjali Sandip Pawar }
Age-15 years, Occ: Education, }
R/at -Bhatmarali, Taluka & District-Satara }
No.2 and 3-Minors }
Thr. Their Guardian Mother Respondent }
No.1. }

4. Sudam Ramchandra Pawar }
Age-63 years, Occ: Agriculturist }
R/at-Bhatmarali, Taluka & District-Satara }

5. Kanta Sudam Pawar }
Since deceased, her name is deleted. }

6. P.N. X. Logistics }
Room No.9, 2nd Floor, Adarsh Society, Devji }
Nagar, Narpoli, Purna Gaon, Bhiwandi, }
District-Thane. } **...Respondents**

NILAM SANTOSH KAMBLE
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Date: 2024.02.06 18:36:49 +0530

Mr.Abhijit Kulkarni a/w Mr.Krushna Jaybhay, Ms.Sweta Shah, for the Appellant.

Mr.Kunal Patel i/b Mr.R.V. Sankpal & Associate, for the Respondent Nos.1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 24th JANUARY 2024

ORAL JUDGMENT :-

. The issue involved in this Appeal is income of deceased is considered on higher side.

2. It is contention of the learned counsel for the Appellant that, the Tribunal has considered monthly income of deceased at Rs.9,000/- per month without any evidence on record, which is on higher side. Hence requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, the deceased was earning Rs.15,000/- per month. The deceased was driving tractor. He was selling milk. He was doing business of tractor. He was earning more than Rs.15,000/- per month, but Tribunal has considered his monthly income Rs.9,000/- per month, which is on lower side. Hence, requested to dismiss the Appeal.

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

5. To prove the income, the Claimant No.1 examined herself. She has stated that, the deceased was driving tractor. He was doing business of milk supplying and his monthly income was Rs.15,000/- per month. In support of evidence of P.W.-1 the Claimant's examined PW-2 Jagannath Chavan, he has stated that, deceased Sandip Pawar used to drive his tractor for 15 to 18 days average in a month and earning Rs.4,500/- to Rs.6,000/- as a tractor driver. Exhibit-42 shows that deceased was earning Rs.9,000/- per month. In cross-examination this witness admitted that there was no agreement between him and the deceased regarding the work of driving the tractor. To prove that deceased was supplying the milk, the Claimant's examined Sanjay Jadhav, P.W.3 at Exhibit-45. He has stated that, he runs the business of collection of milk, deceased used to supply milk in his collection center and he used to give him Rs.2,500/- to Rs.3,000/- for 15 days. This witness further stated that after the

death of the deceased the family members of the deceased had sold cow belonging to them.

6. P.W.-4 Appasaheb Raut at Exhibit-48 has stated that, he has purchased the cow of the deceased for Rs.30,000/-. Considering the evidence on record, the Tribunal has considered monthly income of deceased at Rs.9,000/- per month. I do not find infirmity in it.

7. In my view the deceased was driver, he was driving tractor. He was skilled worker. It has come on record that, the deceased was supplying the milk to Milk Collection Centre. He was maintaining family of five members. Considering these facts the income of deceased at Rs.9,000/- per month considered by the Tribunal is proper.

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

ORDER

(i) The Appeal is dismissed. No order as to cost.

(ii) The Claimants are permitted to withdraw amount deposited by the Appellant-Insurance Company along with accrued interest.

(iii) The statutory amount along with interest be transferred to the Tribunal. The parties are at liberty to withdraw it as per Rules.

(iv) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)