

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 666 OF 2016

The New India Assurance Co. Ltd.]
 Centralised TP-Hub-4th Floor, 41-B Maker Tower,]
 Cuffe Parade, Mumbai- 400 005]
 Policy No. 112000/3109/01/00002475]
 Period 21/08/2009 - 20/08/2010] Appellant

Versus

1. Usha Prakash Patole]
 Age 36 years widow of deceased]
 2. Kiran Prakash Patole]
 Age : 23 years, Son of deceased]
 3. Kanchan Prakash Patole]
 Age 20 years, daughter of deceased]
 All residing at Room No.11, S. N. R. Singh Chawl,]
 No.3, Azad Nagar, Behind Kamalesh Mills,]
 Andheri East, Mumbai – 400 093]
 4. Kevin Anthony D'souza]
 R/o. 401, Harsh Apartment, Plot No.193]
 Sher E Punjab Society, Andheri East,]
 Mumbai – 400 093] Respondents

.....

Ms. Poonam Mital, Advocate for the Appellant.

Mr. T. J. Mendon, Advocate for Respondent Nos. 1 to 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JANUARY, 2024.

JUDGMENT :

1. The issue involved in this appeal is consortium amount is given on higher side.

2. It is contention of learned counsel for the appellant/Insurance Company that the Tribunal has awarded consortium amount under the conventional head which is on higher side, hence requested to allow the appeal.

3. It is the contention of learned counsel for the respondent Nos. 1 to 3/claimants that while awarding compensation, the Tribunal has considered all the aspects and on that basis Judgment and Order is passed, hence no interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Mumbai (for short “**the Tribunal**”). While awarding compensation Tribunal has awarded amount of Rs.2,50,000/- under the conventional head. In my view, it is on higher side. As per view of Hon’ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram***¹, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. There are three claimants. The total comes to Rs.1,80,000/-. If this amount is deducted from Rs.2,50,000/- it comes to Rs.70,000/-. This is excess amount. Appellant/Insurance Company is entitled for this amount.

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

¹ 2018 ACJ 2782 (SC)

ORDER

- (i) The appeal is partly allowed.
- (ii) The appellant/Insurance Company is permitted to withdraw Rs. 70,000/- along with proportionate interest out of deposited amount.
- (iii) The claimants are permitted to withdraw balance amount along with proportionate interest.
- (iv) The statutory amount along with interest be transmitted to the Tribunal. The parties are at liberty to withdraw it as per Rule.

6. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH
KILAJE
Date:
2024.01.20
11:26:45
+0530