Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 828 OF 2023
WITH
CIVIL APPLICATION NO. 3424 OF 2018
IN
FIRST APPEAL NO. 828 OF 2023
WITH
INTERIM APPLICATION NO. 2030 OF 2020
IN
FIRST APPEAL NO. 828 OF 2023

The New India Assurance Co. Ltd …Appellant
Versus
Umadevi Rameshwar Singh & Ors …Respondents

Mr Shrikant Dange, for the Appellant.
Mr TJ Mendon, for the Respondents.

SHEPHALI SANJAY MORMARE

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Date: 2026.01.14 18:19:59 +0530

CORAM: R. M. JOSHI, J.

DATED: 13TH JANUARY 2026

PC:-

1. By consent of both sides heard finally at the stage of Admission.

2. This Appeal is under Section 173 of Motor Vehicles Act 1988 takes exception to the Judgment and Award dated 18th August 2017, passed in MACP No. 99 of 2016, whereby the Tribunal has accepted the case of the Claimant and granted compensation of

Rs. 46,25,000/- along with interest at the rate of 9% per annum from the date of filing of the Petition till realisation of the amount.

3. The Appeal is filed by the Insurer on the ground that the Tribunal has failed to take into consideration negligence in the occurrence of the accident, so also, on the grant of excessive compensation without taking into consideration the income of the deceased and adding incorrect percentage of future prospects.

4. Learned counsel for the Appellant submits that the issue of negligence was very well raised before the Tribunal and on the basis of evidence on the record, the contributory negligence be held. On the point of quantum it is his submission that the tribunal has erred in granting the future prospects to the extent of 50% instead of 40% in case applicable to a self-employed person as head in the Judgement of ***National Insurance Co. Ltd. vs. Pranay Sethi.***[1]

5. Learned counsel for the Claimant though supported the impugned Judgment and Award, he argued that the Tribunal ought not to have accepted the average income of Rs.20,000/- but would have taken into consideration the last income earned by the deceased.

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1 2017 ACJ 2700 (SC).

6. There is no dispute about the fact that the Insurer has raised plea with regard to the negligence on the part of the deceased in occurrence of the accident. However, there was no evidence to substantiate the plea. As far as other issues with regard to the involvement of the offending vehicle in the accident and death of the deceased owning to the injuries caused therein is not in dispute.

7. The Claimants led evidence in the form of Income Tax returns for the Assessment Year 2014-15 and 2015-16 to prove the income of the deceased. The last income drawn by the deceased is Rs.2,78,123/- per annum. The Tribunal, therefore, ought to have considered the said income for the purpose of computation of compensation. The monthly income, therefore, taken into consideration is Rs. 23,000/- in stead of Rs. 20,000/-.

8. The Tribunal further erred in giving 50% of income towards future prospects ignoring the the fact that the receive was self-employed person. By following the Judgment in case of ***Pranay Sethi*** (Supra), the Claimants would be entitled to receive 40% of income towards future prospects.

9. Having regard to the aforestated facts, this Court finds no reason to add any amount of compensation or to deduct anything therefrom.

10. Hence, the impugned Judgments is upheld and the Appeal is dismissed.

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

ORDER

(a) The Appeal is dismissed.

(b) R & P be sent back to the Tribunal.

12. In view of dismissal of the Appeal, pending Applications, if any, stand disposed of.

(R. M. JOSHI, J.)