

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 71 OF 2020
TATA AIG GENERAL INSURANCE CO. LTD. THR. ITS AUTHORIZED
SIGNATORY, AURANGABAD VERSUS HIRABAI ASHOK AWARE AND ORS.

Mr.S.G. Chapalgaonkar, Advocate for the appellant.
Mr.M.M.Patil(Beedkar), Advocate for respondent Nos.1to6.

CORAM : V.L.ACHLIYA,J.
DATED : 17.12.2020

P.C. :-

01. Heard. In brief, it is contention of learned counsel for the appellant that the award passed by the Reference Court is against settled principles of law laid down in the case of National Insurance Co. Ltd. Vs. Pranay Sethi, AIR 2017 SC 5157. It is submitted that the deceased had no fixed income. In-spite of that the income to the extent of 30% has been added to the existing income for determining compensation. It is submitted that in absence of evidence, the Tribunal has relied upon oral testimony that deceased was earning Rs.700/- per month as a Mason. In the background of the overall facts of the case, the learned counsel submits that the award passed is on too higher side and not sustainable in law.

02. On the other hand, learned counsel for the respondent supports the judgment and award passed by the

Tribunal and submits that there is no perversity in the judgment so as to call for interference in exercise of appellate jurisdiction.

03. On due consideration of submissions advanced and challenge raised in the appeal, this Court being first Court of appeal, I am of the view that appeal deserves to be admitted. Hence, following order is passed :-

i) Admit.

ii) Issue notice to the respondents, returnable on 11.02.2021. Learned Counsel Mr. M.M. Patil (Beedkar) accepts notice for respondent Nos. 1 to 6. Notice be issued to other respondents, returnable on 11.02.2020.

iii) Call for record and proceedings.

iv) Paper book dispensed with.

v) Liberty to the parties to move the Court for fixing the matter for final hearing when the appeal is ready in all respect.

[V.L.ACHLIYA,J.]