

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.125 OF 1999

Parbat Namdeo Naikwadi,
age : Major, occ.Agri.,
r/o. Gardani, Tq.Akole,
Dist.Ahmednagar ..Appellant

Versus

- 1] Miss. Latabai Ramchandra Madke,
age 23 years, occ. Household,
r/o. Gardani, Tq.Akole,
Dist. Ahmednagar
- 2] Ashok Karwari Naikwadi,
age : adult, occ.Driver,
r/o. Gardani, Tq.Akole,
Dist.Ahmednagar
- 3] The New India Assurance Co. Ltd.,
Near Hotel Wasco,
At post Nasik Road,
Dist.Nasik
- 4] United India Insurance Co. Ltd.,
Kisan Kranti Bldg.,
Market Yard, Ahmednagar ..Respondents

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Mr. S.T.Shelke, advocate for appellant

None present for respondent no.1

Mr.S.G.Chapalgaonkar, advocate for respondent no.3

Mr.D.V.Soman, advocate for respondent no.4

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CORAM : M.T. JOSHI, J.

DATE : FEBRUARY 11, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by the direction to pay the compensation in a Motor Accident Claim Petition, the owner of the motor vehicle has filed present appeal.

3] Reading of the pleadings, evidence and the arguments from both sides, would show that present respondent no.1 – Latabai has suffered injuries while she was being carried in the tractor of the present appellant on 20th December, 1990. It was the case of respondent no.1 that, respondent no.2, driver of the said tractor, had suddenly applied the brakes and therefore, the incident has occurred. However, it was the case of the present appellant and respondent no.2 – driver of the tractor, that respondent no.1 was holding books in her hands and when the books were suddenly falling

down from her hands, in catching process, the incident has occurred. The learned Member upheld the plea of claimant – respondent no.1.

4] On the basis of the material on record, learned Member, Motor Accident Claims Tribunal, found that respondent no.1 was fifteen and half years old at the time of the accident. The medical evidence on record would show that besides other injuries, there would be difficulties to respondent no.1 in delivery of a child after her marriage. Therefore, on that count, learned Member granted an amount of Rs.30,000/- to respondent no.1 for her personal loss. Towards the hospitalisation, an amount of Rs.20,000/- was granted and an amount of Rs.10,000/- was granted towards pains and sufferings. Thus, the total compensation of Rs.60,000/- was granted by the learned Member to respondent no.1.

5] Mr.Shelke, learned counsel for the appellant, submits that the accident has occurred due to the negligence of respondent no.1 herself. He further submits that the amount of Rs.30,000/- granted by the learned Member towards the personal difficulties of respondent no.1, is unjustified.

6] Upon considering the material on record, in my view, there is no merit in the present appeal and the appeal is, therefore, dismissed for the reasons to follow.

R E A S O N S

7] Mr.Shelke submits that he would not contest the issue of negligence. However, according to him, excessive compensation is granted by the Tribunal. It should be noted that in the said accident, respondent no.1 has suffered fracture to

her pelvic. She was fifteen years and six months old at the time of the accident. On the basis of the evidence, learned Member has granted Rs.20,000 towards hospitalisation and Rs.10,000/- towards the paid and sufferings. Respondent no.1 was only fifteen years and six months old at time of the accident. She was yet to be married. As per the medical evidence, there would be difficulties to her in delivery of a child after her marriage and in the circumstances, learned Member granted amount of Rs.30,000/- for her personal loss. The same cannot be called as unreasonable compensation. In the circumstances, the findings arrived at by learned Member of Motor Accident Claims Tribunal, need no interference.

8] In the result, the appeal is dismissed without any order as to costs.

[M.T. JOSHI, J.]