

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.381 OF 2000

New India Assurance Company Ltd.,
having it's registered and head
office at New India Assurance
Building, 87, M.G.Marg, Fort,
Mumbai 23, Divisional Office
at Dhule and Aurangabad
by its constituted Attorney
Shri N.G. Mali, Divisional
Manager, Divisional Office,
Aurangabad

Appellant

Versus

1] Rambhau Nathu Patkar,
age 69 years, occ.Agri.,

2] Sow.Sushilabai Rambhau Patkar,
age 59 years, occ.Household,
Both r/o. Vanjargali, Tq. Sakri,
Dist.Dhule

3] Sau.Sharda Vishvasrao Patil
(Khairnar), age 54 years,
occ.Household, r/o. Neheru
Housing Society, Plot No.14
at Sakri, Dist.Dhule

..Respondents

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Mr.S.L.Kulkarni, advocate for appellants

Mr.S.B.Talekar, advocate for respondent nos.1 and 2

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 14, 2015

ORAL JUDGMENT :

Heard both sides.

2] The only issue in this appeal is, whether the claimants can be termed as the dependents of the deceased under the provisions of the Workmen's Compensation Act.

3] On the day of the accident, deceased – Nishikant was driving the jeep on the way from Dhule to Pimpelner. At that time, a goods truck bearing registration No.MWQ-2022 dashed the jeep of the deceased. In the said accident, the deceased died. The documentary evidence, which was not controverted, was that the deceased was 27 years old and was earning Rs.1,500/- per month.

4] Mr.Kulkarni, learned counsel for the appellants, submits that the parents of the deceased i.e. present respondent nos.1 and 2 were

not dependents of the deceased. Respondent no.1 – Rambhau is the father, who is pensioner and as such, said couple cannot be called as dependents of the deceased.

5] Provisions of Section 2(d)(iii) of the Workmen's Compensation Act, 1923, runs as under :-

2(d)“Dependant” means any of the following relatives of a deceased workman, namely-

(i) a widow, a minor [legitimate or adopted] son, an unmarried [legitimate or adopted] daughter, or a widowed mother; and

(ii) if wholly dependent on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;

(iii) if wholly or in part dependent on the earnings of the workman at the time of his death-

- (a) a widower,
- (b) a parent other than a widowed mother,
- (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter [legitimate or illegitimate or adopted] if married and a minor or if widowed and a minor,
- (d) a minor brother or an unmarried sister or a widowed sister if a minor,
- (e) a widowed daughter-in-law,
- (f) a minor child of a pre-deceased son,
- (g) a minor child of a pre-deceased daughter where no parent of the child is alive, or
- (h) a paternal grandparent if no parent of the workman is alive

[Explanation. - For the purposes of subclause (ii) and items (f) and (g) of sub-

clause (iii), references to a son, daughter or child include an adopted son, daughter or child respectively];

6] Reading of the provisions, thus, would show that dependent includes a parent or parents and would be entitled for the compensation.

7] Here, as per the submission of the appellant, respondent no.1 – Rambhau is pensioner while respondent no.2 – Sushilabai was not carrying any work. In that view of the matter, since the respondents were dependents as per the definition as detailed supra, there is no force in the appeal.

8] Hence, the appeal is dismissed without order as to costs.

[M.T. JOSHI, J.]