

UNREPORTED

IN THE HIGH COURT OF JUDICATURE AT

BOMBAY

BENCH AT AURANGABAD.

FIRST APPEAL NO.218 OF 2003.

National Insurance Company
Ltd., Delhi-6,
through it's Divisional Manager,
Hajari Chember, Aurangabad,
District Aurangabad. ... Appellant.

Versus

1. Anupsingh S/o Karanailsingh
Jat, Age 43 years, Occ.Labour,
R/o House No.92, LohariMall,
Post Ghariba, Taluka and
District Amritsar (Punjab).

2. Virkaur W/o Anupsingh Jat,
Aged 41 years, Occ.Household,
R/o as above.

3. Jaspalsingh S/o Massasingh,
Age 45 years, Occ.Truckowner,
R/o C/o Shivshakti Road Lines,
1215, Faizganj, Bhadurgarh Road,
Delhi-6. ... Respondents.

...

Mr.S.P.Chapalgaonkar, advocate for the appellant.
Mr.U.N.Shete, advocate for Respondent Nos.1 and
2.
Mr.Sanjay Munde, advocate for Respondent No.3.

...

CORAM : S.V.GANGAPURWALA, J.

Date : 08.09.2015.

ORAL JUDGMENT :

1. Heard.

2. The present Respondent Nos.1 and 2 had filed application for compensation U/s 163-A of the Motor Vehicles Act, on account of death of their son Gurdipsingh. The Tribunal allowed the application, granted compensation of Rs.5,00,000/- (Rupees five lacs) with interest at the rate of Rs.12/- % p.a. The Insurance Company aggrieved by the said judgment has filed the present appeal.

3. Mr.Chapalgaonkar, learned counsel for the appellant submits that the deceased was a Bachelor. As such the deduction towards personal expenses should be half. The Tribunal has deducted only 1/3rd towards personal expenses which is erroneous. The learned counsel further submits that the interest awarded is also exorbitant. Normal trend is to award interest at the rate of Rs.7.5% p.a. Even the income of the

deceased has been considered as Rs.3,500/- p.m. Without any proof of the same. Only statement of the claimant is relied.

4. Mr.Shete, learned counsel for the claimant supports the order and submits that the salary certificate is produced on record which would show the income of the claimant as Rs.3,000/- p.m. The deduction of 1/3rd is rightly made as the deceased used to contribute the whole income to his parents. The learned counsel submits that even no amount is awarded towards non-pecuniary damages.

5. I have considered the submissions. The deceased was a Bachelor. In such circumstances, deduction towards personal expenses should be half. The Tribunal has considered only 1/3rd deduction towards personal expenses.

6. Perusal of the judgment, it is manifest that the Tribunal has not awarded any compensation under non-pecuniary damages, such as on account of loss of love and affection, loss of

estate, funeral expenses, etc. As per Judgment of the Apex Court in a case of **"Asha Verman and others Vs. Maharaj Singh and others"** reported in **2015 AIR SCW 3577**, the Apex Court has laid down that the parents would be entitled for an amount of Rs.50,000/- (Rupees fifty thousand) each on account of loss of love and affection, so also will be entitled for the loss of estate and funeral expenses at Rs.25,000/- (Rupees twenty five thousand). So even if the amount towards personal expenses is deducted as half and if the amount towards non-pecuniary damages are included, the amount of compensation would be same as awarded by the Tribunal.

7. In light of that, I am not inclined to interfere with the judgment with regard to the quantum of compensation awarded. As far as interest is concerned, Rs.9/- % p.a. would be a reasonable one.

8. In light of the above, I pass the following order :

a) The order of the Tribunal to the extent of awarding Rs.5,00,000/- (Rupees five lacs) compensation is upheld. Instead of interest at the rate of Rs.12/- % p.a., I award the interest at the rate of Rs.9/- % p.a. The original opponents in the claim petition shall jointly and severally pay an amount of Rs.5,00,000/- (Rupees five lacs) including the amount under NFL to the claimants along with interest at the rate of Rs.9/- % p.a. from the date of application till realisation.

b) The First Appeal is accordingly disposed of.
No costs.

Sd/-
(S.V.GANGAPURWALA, J.)

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