

FIRST APPEAL NO. 844 OF 2013

The National Insurance Co. Ltd. .. Appellant

Versus

1. Parwatibai Deorao Gaikwad
and others .. Respondents

Shri S. P. Chapalgaonkar, Advocate for the Appellant.
Shri A. S. Shelke, Advocate h/f Shri S. V. Mundhe, Advocate for
the Respondent No. 1 and 5.
Shri S. K. Shaikh, Advocate for the Respondent No. 6.
Smt. Ranjana D. Reddy, Advocate for the Respondent No. 7.

CORAM : S. V. GANGAPURWALA, J.
DATE : 23RD SEPTEMBER, 2015.

PR COURT :-

Mr. Chapalgaonkar, the learned counsel for the appellant submits that, the Tribunal while awarding the compensation amount has exorbitantly awarded the said compensation. The income has been considered as Rs. 6,000/- per month. The same is without any proof. According to the learned counsel even the Tribunal came to the conclusion that, there was no proof to show that, deceased was earning Rs. 9,000/- per month. The deceased was allegedly working as a centering labour, his income could not have been taken as Rs. 6,000/- per month. At the most notional income of Rs. 3,000/- per month could have been considered.

According to the learned counsel, the Tribunal has come to the conclusion that, the driver of the jeep as well as the driver of the S. T. bus both were rash and negligent. While passing the final order apportionment should have been made, which is not made.

2. Mrs. Reddy, learned counsel for the Respondent No. 7, submits that, the Maharashtra State Road Transport Corporation has already made payment to the extent of 50% of the amount awarded by the Tribunal.

3. I have also heard the learned counsel for claimants.

4. As far as the quantum of compensation is concerned it would appear that, the deceased was aged 32 years and the Tribunal has considered the evidence that he was doing the centering work that means he was a skilled labour. In such a case Rs. 6,000/- per month income is considered, which appears to be reasonable and proper. Even if, I reduce the said income, however, it appears that, under other heads a paltry sum towards consortium, loss of love and affection has been awarded. If the non pecuniary damages are awarded as is laid down by the Apex Court in a case of **Asha Verman and others Vs. Maharaj Singh and others** reported in ***2015 All SLR 1476***, then in that case, each claimant i. e. children and widow would be entitled for Rs. 1,00,000/- towards loss of love and affection. Here

only Rs. 10,000/- are awarded towards consortium. Considering that, the compensation awarded is modest and reasonable.

5. As far as the apportionment is concerned the Tribunal has come to the conclusion that, the driver of the jeep and the driver of the S. T. Bus both were negligent and were held responsible for the accident. As far as claimants are concerned, it would be case of composite negligence. It has been submitted by the learned counsel for the M. S. R. T. C. that, M. S. R. T. C. has already paid 50% of the amount of compensation. In light of that, the liability of the present appellant would now be limited to the extent of 50% only. The apportionment as such would be on the said amount.

6. In light of the above, the first appeal stands disposed of. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Sept. 15