

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.837 OF 2002

- 1) Sakharbai Baliram Sangale
Age: 45 Yrs., occu. Nil
R/o Mhalsabai Hiware,
Tq.Newasa, Dist. Ahmednagar.
 - 2) Baliram Shivram Sangale
(deceased) as dead deleted
vide Exh.26
- = **APPELLANTS**
(orig. Claimants)

VERSUS

- 1) National Insurance Company
Ltd. Through its'
Branch Manager, Nationalized
Insurance Co. Ltd. Ahmednagar.
- (appeal stood dismissed as
against Resp.Nos.2 & 3 vide
Registrar's order dt.
2.12.2003)
- = **RESPONDENTS**

Mr.RK Temkar, Advocate for Appellants;

Mr.RC Bora, Adv. h/for Mr. PP Bafna, Adv. for
Respondent No.1.

CORAM : P.R.BORA, J.

DATE : 25th November,2016.

ORAL JUDGMENT:

- 1) Heard Shri Temkar, learned Counsel
appearing for the appellant. The appellant has
filed the present appeal taking exception to the

Judgment and Award dated 9th April, 2002 passed by Motor Accident Claims Tribunal, Ahmednagar (for short, the Tribunal) in MACP No.457/1995. The Tribunal, vide the impugned Judgment and Award has awarded the compensation to the tune of Rs.1,18,600/- inclusive of NFL compensation together with the interest thereon @ 9% p.a. jointly and severally from the owner and insurer of the vehicle involved in the accident. The present appeal is filed seeking enhancement in the amount of compensation so awarded by the Tribunal.

2. The learned Counsel submitted that the Tribunal has erred in holding the income of the deceased to the tune of Rs.40/- per day, i.e. Rs.1,200/- per month when sufficient evidence was adduced to show that the deceased was earning Rs. 1500 per month. The learned Counsel further submitted that the Tribunal has not awarded the just and adequate compensation towards pecuniary damages.

3) The learned Counsel appearing for the respondent insurance company submits that the Tribunal has passed a well-reasoned order and no interference is required in the Judgment and Award so passed.

4) I have carefully perused the impugned Judgment and Award. Apparently, I do not see any reason to cause interference in the Judgment and Award so passed. Though it was the contention of the appellant that the deceased was earning around Rs.1,500/- per month, no cogent and sufficient evidence was adduced to prove the same. In the circumstances, the Tribunal has rightly held the income of the deceased on notional basis to the tune of Rs.1,200/- per month and has accordingly awarded the compensation.

5) It is further revealed that in fact when 50% of the total income should have been deducted by the Tribunal towards the personal expenses of

the deceased, since he was bachelor, the Tribunal has deducted 1/3rd towards personal expenses and has accordingly determined the amount of dependency compensation. In so far as non-pecuniary damages are concerned, the compensation awarded by the Tribunal, is in consonance with the legal position prevailing at the relevant time. No interference is therefore required in the amount of compensation so determined.

6) After having considered the entire material on record, it does not appear to me that the Tribunal has committed any error in passing the impugned Judgment and Award. The appeal, being devoid of any merit, deserves to be dismissed and is accordingly dismissed, however without any order as to the costs.

(P . R . BORA)
JUDGE

bdv/