

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**FIRST APPEAL NO.37/2007 WITH
CIVIL APPLICATION NO.187/2016**

The Oriental Insurance Company Ltd.
Yashodhan 2-13-24 Subhash Road Beed, through
Sr. Divisional Manager, Adalat Road
Aurangabad (Police No.161904/001/31/2003/5413)
Vehicle No. MH-23-C-782 .. APPELLANT
[ORGN.RES.NO.3]

VERSUS

- 1] Kaushalyabai W/o Dwarkadas Kumkar
Age 40 years, Occ-Household
- 2] Sumit s/o Dwarkadas Kumkar
Age 20 years,
- 3] Amit s/o Dwarkadas Kumkar
Age 17 years,
- 4] Ku.Priyanka D/o Dwarkadas Kumkar
Age 14 years, No.3 to 4 are minors under guardianship
of their real mother respondent no.1
All r/o Tembhurni, Tq. Jafrabad, Dist.Jalna
At present at Vidyut Colony, Jalna
- 5] Smt.Majabai w/o Thakaji Kumkar
Age 73 years, Occ-Nil

R/o Temburni Tq. Jafrabad.

Res.No.1 to 5
Original Claimants

6] Kadir s/o Amir Chous,
Age 33 years, Occ-Driver
: MH-23/C-782, R/o Navapul,
Beed, Dist. Beed.

7] Badiyoddin s/o Rafiyoddin Ansari
Age major, Occ-Business & Owner
MH-23/C-782, R/o Bundelpura, Beed

8] Prakash s/o Marotrao Jadhav
Age 35 years, Occ-Agril
R/o Kachner, Tq. Paithan
Dist.Aurangabad owner of
Metador no.MH-20/W-5208 ..

Orig.Resp.No.1,2&4
Respondents No.6 to 8

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Shri A.S.Deshpande, Advocate for appellant

Shri N.B.Narwade, Advocate for respondent nos.1 to 4.

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CORAM : T.V.NALAWADE

DATED : 26TH FEBRUARY,2016

JUDGMENT :-

The appeal is filed by insurance company against judgment

and award of Claim Petition No.45/2003 which was pending before Motor Accident Claims Tribunal, Parbhani. The appeal is filed mainly on the ground of quantum of compensation. Both sides are heard.

2] The accident took place on 3/8/2002. The husband of claimant no.1 died in the accident and it is contended that at the relevant time he was aged about 45 years. Claimants no.2 to 4 are the minor issues of the deceased and claimant no.5 is the mother of the deceased. It is the case of claimants that the deceased was working as Head Master and his monthly salary was more than Rs.16,948/-. It is the case of the claimants that they were totally depending for their livelihood on the income of deceased. They had claimed compensation of Rs.25 lakhs. The claim was contested by appellant -insurance company.

3] Before the tribunal, claimants gave oral and documentary evidence. The oral evidence is as per aforesaid contentions. Evidence on age is given and the age is mentioned in post mortem report also. Salary certificate issued by Government Technical High School, Beed is produced at Exh.40 and it shows that for the month of June, the gross salary was Rs.16,948/-. Thus, the annual income of the deceased was atleast Rs.2,03,000/-. The deceased would have paid income tax at the most of Rs.15,000/- and so there was

net income of Rs.1,88,000/-. In the family of the deceased there were three adult members and three minor members. Thus, only 1/4th amount could have been deducted towards personal expenses of the deceased. If the amount of Rs.47,000/- is deducted for personal expenses from the aforesaid net income, the annual loss of dependency comes to Rs.1,41,000/-. The deceased would have retired from service after completing 58 years and so 13 could have been safely applied as multiplier for calculation of total loss of dependency, then the amount comes to more than Rs.18 lakh. The amount could have been given under the head consortium, loss of love and affection and for funeral expenses. The Tribunal has awarded the compensation of Rs.17.62 lakhs. Thus the compensation awarded is on lower side. There is no possibility of interference in the decision of the Tribunal.

4] So the Appeal is dismissed. Civil Application stands disposed of. The amount deposited if any in the Tribunal or in this Court is to be disbursed as per the award made by the Tribunal.

(T.V.NALAWADE,J.)

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