

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) FA NO.1755 OF 2016

909 FIRST APPEAL NO. 1755 OF 2016

NATIONAL INSURANCE CO LTD THROUGH DIVISIONAL
MANAGER AURANGABAD

VERSUS

SADAKAWARBAI CHANDULAL BANGAD AND ORS

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Advocate for Appellant : Mr.Gatne Atul B.
Mr. Raje Vikrant P., Advocate for R/3.

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CORAM : P.R. BORA, J.
Dated: November 23, 2016

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PER COURT :-

1. The present appeal is filed against the judgment and award passed by the Motor Accident Claims Tribunal at Jalna in M.A.C.P.No.65/2008 decided on 13th of January, 2010. The Tribunal has awarded total compensation of Rs.1,49,500/- to the present respondents who are parents of the deceased, inclusive of the NFL compensation.

2. The Insurance Company has challenged the impugned judgment on two counts; first, that the Tribunal has erred in presuming the income of the deceased to be Rs.5,000/- per month without any evidence therefor; and the second that, since the deceased was a bachelor, one half of the amount was liable to be deducted while determining the amount of dependency compensation when the Tribunal has assessed the compensation by

AGP/-

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deducting one third of the amount towards personal expenses.

3. The Original claimants though are duly served, none has appeared on their behalf today when the matter is taken up for hearing. Learned Counsel for respondent no.3, the owner of the vehicle, is heard. It is true that in determining the amount of dependency compensation some mistake is committed by the learned tribunal, but if the impugned Judgment is perused it reveals that the tribunal has also committed an error by not awarding any amount towards non-pecuniary damages. In the circumstances even if the amount awarded towards dependency compensation is reduced to some extent as contended by the appellant insurance company and some amount is awarded to the claimants towards non-pecuniary damages to meet the requirement of granting just and fair compensation, the amount of compensation as granted in the impugned award possibly may remain the same. I therefore, do not see any reason to cause any interference in the impugned Judgment and award.

4. It further appears to me that the insurance companies may not indulge in filing appeals in the cases where amount of compensation awarded by the tribunal can not be said to be awarded arbitrarily or unreasonably on higher side or the amount awarded is small if the

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liability of the insurance company is not in dispute.

. For the aforesaid reasons the appeal fails and is accordingly dismissed, however, without any order as to the costs.

5. In view of the fact that the appeal has been dismissed, the amount of compensation deposited by the appellant Insurance Company shall be released in favour of the claimants in terms of impugned award. To facilitate disbursement of the amount, the amount be transmitted to the Motor Accident Claims Tribunal, at Jalna. The Registry to take necessary steps.

(P.R. BORA, J.)

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