

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

FIRST APPEAL NO. 307 OF 2008

National Insurance Company Ltd.
Divisional Office, Hajari Chambers,
Station Road, Aurangabad
Through its Divisional Manager.

.... APPELLANT/
[ORI. RESP. NO. 2]

V E R S U S

1. Smt. Nilawati w/o Manik Kambale
Age : 45 Yrs., Occ. : Household,
R/o : Dhorala, Tal. Kallam,
Dist. Osmanabad.
2. Sanjivkumar s/o Manik Kambale
Age : 29 Yrs., Occ. : Education,
R/o : Dhorala, Tal. Kallam,
Dist. Osmanabad.
3. Raju s/o Manik Kambale
Age : 27 Yrs., Occ. : Education,
R/o : Dhorala, Tal. Kallam,
Dist. Osmanabad.
4. Kiran s/o Manik Kambale
Age : 24 Yrs., Occ. : Education,
R/o : Dhorala, Tal. Kallam,

Dist. Osmanabad.

5. Balasaheb s/o Manik Kambale

Age : 22 Yrs., Occ. : Education,

R/o : Dhorala, Tal. Kallam,

Dist. Osmanabad.

6. Smt. Dhropadabai w/o Sadashiv

Kambale, Age : 67 Yrs.,

Occ. : Nil., R/o : Dhorala,

Tal. Kallam, Dist. Osmanabad.

7. Suresh s/o Anandrao Kavathalkar [RES.NOS. 1 TO 6 -

Age : Major, Occ. : Business, ORI. CLAIMANTS ;

R/o : Anjansonda, Tal. Chakur, RES. NO. 7 –

Dist. Latur. ORI. RES.NO. 1]

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Mr. D.V.Soman, Advocate for Appellant.

Mr. A.B.Tele, Advocate for R.Nos. 1 to 6.

Mr. R.B.Bhoomkar, Advocate for R.No. 7.

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CORAM : T.V.NALAWADE, J.

DATE OF JUDGMENT : 20th JANUARY, 2016

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JUDGMENT :

1. The Appeal is filed by the insurance company to challenge the Judgment and Award of M.A.C.P. No. 25/1999

which was pending before the Motor Accident Claims Tribunal, Osmanabad. Learned counsels for both sides are heard.

2. The claim was filed in respect of the death of one Manik Kambale, who was husband of claimant No. 1 and father of claimant Nos. 2 to 5. Claimant No. 6 is the widowed mother of the deceased. He was aged about 45 years and he was working as a lineman in M.S.E.B. It is the contention of the claimants that the monthly salary of the deceased was ₹ 7,973/- and all the claimants were depending for their livelihood on the deceased.

3. Present Appeal is filed to challenge only the quantum of compensation and so the matter relevant for ascertaining the quantum is being discussed. Claimant No. 1 has given evidence as per the aforesaid contentions. No certificate about date of birth of the deceased is produced. Salary certificate issued by the Executive Engineer, M.S.E.B. is produced and it was not disputed. The certificate at Exh. 37 shows that the gross salary of the deceased for the month of November, 1998 was ₹ 7,838/- . Professional tax of

₹ 120/- was deducted and other deductions were towards the loan, etc.

4. The Tribunal has held that the deceased was between the age group of 45 – 50 years. Though there were 7 members including the deceased in the family, the Tribunal has deducted $1/3^{\text{rd}}$ amount from the income of the deceased under the head of personal expenses and it is held that there is annual loss of ₹ 50,000/- to the claimants. In view of the age of the deceased, 13 is adopted as multiplier and under the head of loss of dependency, amount of ₹ 6.5 Lacs is awarded as compensation. Under the head of loss of consortium, amount of ₹ 10,000/- is awarded and under the head of funeral expenses and loss of estate, amount of ₹ 10,000/- is awarded. Thus, total compensation awarded is ₹ 6.7 Lacs. This Court has no hesitation to hold that the compensation awarded is on lower side. $1/5^{\text{th}}$ amount could have been deducted towards personal expenses and further after considering the service left, multiplier could have been adopted and even increase in the prospective income could have been given, as the deceased was in permanent employment. Thus, it is not possible to interfere in the

decision of the Tribunal on the point of quantum of compensation.

5. In the result, First Appeal stands dismissed.

[T.V.NALAWADE, J.]

KNP/F.A. 307.2008 - [J]