

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

**FIRST APPEAL NO. 2824 OF 2015
WITH
CA/13958/2015 IN FA/2824/2015
WITH
CA/172/2016 IN FA/2824/2015**

**NEW INDIA ASSURANCE CO. LTD.
VERSUS
PRABHAKAR ASHRUBA SONTAKKE AND OTHERS**

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Advocate for Appellant : Mr S G Chapalgaonkar
Advocate for Respondents : Mr. S B Choudhari For R/1
To 3, Mr S B Dhaware h/f Mr S G Kawade For Resp 5
And 6.

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**CORAM : V.K. JADHAV, J.
Dated: March 07, 2016**

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PER COURT :-

1. Aggrieved by the order dated 2.7.2015 passed by the learned Member of Motor Accident Claims Tribunal, Beed, in Motor Accident Claim Petition No.58 of 2014, the appellant/original respondent No.3-Insurer preferred this appeal.

2. Brief facts, giving rise to the present appeal are as under :-

on 22.12.2013 deceased Datta (minor boy of 15 years) was standing on the left side of Kallamb to

Ambajogai Road near Nivasi Ashram School. At that time, one Swift Car of Maruti Company bearing registration No.MH-44-B-2012 came from Kallamb side and gave dash to him. He was immediately thereafter shifted to Rural Hospital, where he was declared dead on arrival.

3. The parents and brothers of deceased Datta preferred Motor Accident Claim Petition No.58 of 2014. The learned Member of the Motor Accident Claims Tribunal, Beed by impugned order dated 2.7.2015 allowed the claim petition and thereby directed the respondents no. 1 to 3 to pay compensation of Rs.5.00 lacs jointly and severally to the claimants under section 166 of the Motor Vehicles Act with interest @ Rs.8% p.a. from the date of petition, till the deposit. Hence, this appeal.

4. The learned counsel for the appellant submits that, during the pendency of this appeal, respondents 1 to 4/original claimants have submitted a proposal to the appellant to the effect that, the respondents/original

claimants are ready to accept an amount of Rs.4.00 lacs (Rs. Four Lacs) with interest as awarded by the learned Member of Motor Accident Claims Tribunal, Beed, towards full and final settlement of the claim. Learned counsel also submits that, the appellant-insurer has accepted the said proposal and in view of this, this appeal may be disposed of.

5. In view of the above statement, following order is passed.

ORDER

- I. First Appeal is hereby partly allowed.
- II. The order dated 2.7.2015, passed by the learned Member, Motor Accident Claims Tribunal, Beed, in Motor Accident Claim Petition No.58 of 2014 is hereby modified to the extent that, the respondents no. 1 to 3 do jointly and severally pay compensation of Rs.4,00,000/- (Rs. Four Lacs only) [**Instead of rupees five lacs**], including 'No Fault Liability amount' to the claimants under section 166 of the Motor Vehicles Act, with interest @ 8% p.a. from the date of petition till the realization of the entire amount. Rest of the impugned order stands confirmed.

III. An amount of Rs.4.00 lacs (Rs. Four lacs), as modified by this Court, shall be paid to respondent nos.1 to 3 in the equal share and amount falling in the share of minor respondent no.4/original claimant no.4 shall be kept in any Nationalized Bank till he attains the age of majority.

IV. The Appellant/Insurer is entitled to withdraw rest of the amount.

V. Award be drawn up accordingly.

VI. Appeal is hereby disposed of.

VII. In the circumstances, there shall be no order as to costs.

VIII. In view of disposal of first appeal itself, pending civil applications also stand disposed of.

(V.K. JADHAV, J.)

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aaa/-