

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2347 OF 2012

1. Datta s/o Ramchandra Wanole,
Age: 44 years, Occ. Labour.
2. Sarjabai w/o Datta Wanole,
Age 42 years, Occ. Household,
Both R/o Zalkwadi, Tq. Kinwat,
Dist. Nanded. ... Appellants

Vs.

1. Vishwanath s/o Shivram Dhole,
Age Major, Occ. Business,
Owner of Tempo No.MH-26/H-3093,
R/o Telji, Tq. Loha, Dist. Nanded. ... Dismissed as per
order dtd.04.10.13
2. ICICI Lombard General Insurance,
Co. Ltd., ICICI Bank Towers,
Bandra Kurla Complex, Mumbai. ... Respondents

...

Advocate for Appellants : Nagarkar Kiran M.
Advocate for Respondents :A.G. Choudhari for R2

...

CORAM : P.R. BORA, J.
DATE : 14-12-2016.

ORAL JUDGMENT:

1. Heard the learned counsel appearing for the parties. Two objections are raised on behalf of the appellant; first is that the tribunal has erred in deducting 1/2 of the amount towards the personal expenses of the deceased while determining the amount of compensation and the other that the Tribunal has not properly considered the income of the deceased.

2. Learned counsel submitted that, the tribunal must have deducted 1/3rd of the amount towards personal expenses and on

the remaining amount the dependancy compensation must have been determined. However, the contention so raised cannot be accepted. Law is well settled that in the case of death of a bachelor 1/2 of the amount is to be deducted towards his personal expenses while determining the amount of dependancy compensation payable to his parents.

3. The another ground which has been raised by the appellant is in respect of the income of the deceased. The learned counsel submitted that, the deceased was working as a Labour and was earning around Rs.200/- per day. The learned counsel submitted that, the employer has not denied or disputed the said fact. The learned counsel submitted that, infact the employer has not appeared in the matter and, as such, there is no contrary evidence. The learned counsel submitted that, the father of the deceased on affidavit has stated the fact that, deceased was earning around Rs.200/- per day and, in the circumstances, the tribunal shall not have held the income of the deceased on the basis of notional income.

4. On perusal of the evidence on record and the discussion made by the tribunal, it appears to me that, except the oral testimony of the father of the deceased there was no other corroborative evidence about the income of the deceased and, as such, it does not appear to me that, the tribunal has committed any error in determining the amount of compensation on the basis of notional income.

5. The appeal being devoid of any substance deserves to be dismissed and is accordingly dismissed.

(P.R. BORA)
JUDGE