

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

**FIRST APPEAL NO. 248 OF 2002
WITH
CA/1467/1992 IN FA/248/2002
WITH
CA/4269/1992 IN FA/248/2002
WITH
CA/757/1993 IN FA/248/2002**

M/S NATIONAL INSKURANCE CO.LTD.
3, Middle ston Street, Calcutta,
700 071 (Regd Office) and Divisional
Office at Hazari Chambers, Station Road,
Aurangabad 431 005.
And Branch Office at Naginghat Road,
Nanded, Through its Divisional Manager.

appellant/orig
respondent.

VERSUS

1. Chotibai w/o Badshah Hawaldar,
age about 43 yrs, Occ. Household,
R/o. Kurunda, Tq. Basmat Dist.
Parbhani. Resp No.1.
2. Harbansingh Sardar s/o Pyarasingh
Kalsi, aged about 40 yrs, Occ. Driver,
R/o Near Multipurpose High School,
Vazirabad, Nanded – 431 601.
3. Dagdu s/o Tukaram Narwade,
age 30 yrs, Occ. Cleaner,
Tq. Ahmedpur, Dist. Latur.
4. Smt. Inderjeet Kaur w/o Harbansingh
adult, Occ. Business, r/o Near
Shivaji High School, Vazirabad,
Nanded. .Orig resp No.
1 to 3.

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Advocate for Appellant : Mr V N Upadhye
Advocate for Respondents : Mr A B Kale

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CORAM : V.K. JADHAV, J.
Dated: April 20, 2017
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ORAL JUDGMENT :-

1. Being aggrieved by the judgment and order passed by the Member, Motor accident Claims Tribunal, Parbhani dated 9.3.1992, in MACP No.40/1987, the original respondent-insurer has preferred this appeal to the extent of quantum.

2. Learned counsel for the appellant-insurer submits that admittedly deceased Mukhtar was earning Rs.360/- p.m. and he was a unmarried son and as such, half of the amount was required to be deducted towards his personal and living expenses, however, the Tribunal has not deducted any amount towards his personal and living expenses. Further, The Tribunal has not applied multiplier method for calculation of the compensation and awarded lumpsum compensation as claimed by the claimants.

3. The learned counsel for respondents-claimants

submits that the Tribunal has awarded just and reasonable compensation. No interference is required.

4. On perusal of the evidence and judgment and Award passed by the Tribunal, it appears that, deceased Mukhtar was earning Rs.360/- per month and he was an unmarried son. There was no reason for the Tribunal to make departure from the multiplier method and award the lumpsum compensation in death claim. It further appears that the tribunal has awarded compensation of Rs.1,30,200/- as a lumpsum compensation. Considering the young age of the deceased Mukhtar and fact that he was the only son, it would be just and proper by applying relevant multiplier in consonance with the age of the respondent-claimant and further the award of compensation under such non pecuniary heads, it would be just and proper if the compensation is awarded to the tune of Rs.1,00,000/- (Rs one lac) inclusive of the interest as awarded by the Tribunal from the date of the application till the realization of the entire amount. The impugned judgment and award thus requires modification. Hence,

following order.

O R D E R

- I] Appeal is hereby partly allowed. No costs.
- li] The judgment and award passed by the Member, Motor Accident Claims Tribunal, Parbhani, dated 9.3.1992 is hereby modified in the following manner :-
 - a] The respondents no. 1 to 4 are jointly and severally liable to pay the compensation of Rs.1.00 lac (Rs. One lac) inclusive of the amount if any granted under section 140 of the Motor Vehicles Act and also inclusive of the interest for the period from the date of application till realization of the amount.
 - lii] Rest of the judgment and award stands confirmed.
 - iv] Modified award be drawn up accordingly.
 - v] Needless to say that, if any amount is paid as per the judgment and award passed by the Tribunal, the same shall be the part of the modified award and the amount in excess, if any, deposited before the tribunal, the same shall be refunded to the appellant insurer.
 - vi] Appeal is accordingly disposed of. Pending civil applications stand disposed of.

(V.K. JADHAV, J.)

aaa/-

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