

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO. 4393 OF 2016

SHASHIKALA SANTOSH DABADE AND OTHERS
VERSUS
KULWANTSINGH PHOUSJASINGH CHAL AND ANOTHER

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Advocate for Appellants : Mr. Govind G. Suryawanshi.

Advocate for Respondent No.1 : Mr. P. D. Kothari, h/f Mr. Satyajit S. Bora.

Advocate for Respondent No.2 : Mr. Sudhir V. Kulkarni.

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CORAM : **V. K. JADHAV, J.**

DATE : 16th February, 2017.

ORDER:

. Heard finally with consent at admission state.

2 Being aggrieved by the judgment and award dated 18th December, 2015 passed by the learned Member of the Motor Accident Claims Tribunal, Biloli in MACP No.48 of 2012, the original Claimants have preferred this appeal to the extent that though the Tribunal has awarded just and reasonable compensation, failed to award the interest from the date of application till realization of the amount.

3 The learned counsel for Appellants / Claimants submits that the learned Member of the Motor Accident Claims Tribunal, Biloli has awarded the just and reasonable compensation of Rs.5,86,000/- to the Claimants on account of the accident dated 13th March, 2012

occurred due to the rash and negligent driving of the driver of cruiser jeep bearing registration No.MH-26-L-2561, in which Santosh Dabade died, however, failed to award the interest from the date of application till realization of the entire amount. The Tribunal has awarded the interest in case the Respondents failed to pay the compensation within stipulated period of two months. The learned counsel submits that the Tribunal has not recorded any special reasons for not awarding the interest from the date of application till realization of the entire amount. The Appellants / Claimants are entitled for the said compensation at the rate of 9% per annum since the accident had taken place in the year 2012.

4 I have also heard the learned counsel for Respondent No.1 / owner and the learned counsel for Respondent No.2 / Insurer.

5 The learned counsel for Respondent / Insurer submits that the Tribunal has directed the Respondents to pay the amount within two months from the date of the order and failing therein directed to pay the interest @7.5% per annum on the compensation amount from the date of petition till realization of the amount. The learned counsel submits that accordingly the Respondent / Insurer has deposited the entire amount within two months as directed and therefore, the

Respondent / Insurer is not liable to pay the interest as directed by the Tribunal.

6 On careful perusal of the impugned judgment and award, it appears that the Tribunal has not recorded any special reasons for not granting the interest from the date of application till realization of the amount. The breadwinner of the family met with an accidental death in the year 2012 and the learned Member of the Tribunal has disposed of the said claim petition in the month of December 2015. In absence of any special reasons and I also do not find any special reason refusing interest from the date of application, the Appellants / Claimants are entitled for the interest @9% per annum from the date of application i.e. 5th May, 2012 till realization of the entire amount. The impugned judgment and award requires modification to that effect. Hence, the following order:

ORDER

- I. The appeal is hereby partly allowed. No costs.
- II. The judgment and award dated 18th December, 2015 passed by the learned Member of the Motor Accident Claims Tribunal, Biloli in MACP No.48 of 2012, is hereby modified in the following manner:

“Respondent Nos.1 and 2 are hereby directed to make payment of Rs.5,86,000/- (Rupees Five Lacs and Eighty-Six Thousand only) to the Petitioners inclusive of N.F.L. amount jointly and severally alongwith interest @9% per annum from the date of petition till realization of the entire amount.”

III. Award be drawn up as per the above modification.

IV. Appeal is accordingly disposed of.

[V. K. JADHAV, J.]

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