

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

**FIRST APPEAL NO.1248 OF 2008
WITH CIVIL APPLICATION NO.3546 OF 2008**

- . The New India Assurance Company Ltd.,
a Subsidiary of the General Insurance
Corporation of India And a Company
incorporated under the Companies
Act, having its regional office at 11/1,
2nd Floor, Sharadaa Center, Erandwana,
Pune and one of its Divisional Office at
Adalat Road, Aurangabad.
Through its Senior Manager,
Shri Vishwas s/o Bansi Gaikwad,
Age: 52 years, Occu.: Service as
Senior Manager, The New India Assurance
Co., D.O.No.1, Adalat Road, Aurangabad. ..Appellant
[Orig.R.No.3]

Versus

1. Yamaji s/o Mainaji Bhise
Age: Major, Occu.: Agrl.Labour,
R/o.Sheoga, Tq.Ambad,
A.P. C/o. Dilip Aatmaram Lanke,
Sindhi Kalegaon Shivar,
Tq. & Dist.Jalna.
2. Shakuntala w/o Yamaji Bhise
Age: Major, Occu.: Household,
R/o. As above.
3. Mohammad Mustan Md.Maulana Shaikh
Age: 45 yrs., Occu.: Driver,
R/o.Kabristan Road, Waapi, Tq.Pardhi,
Dist.Balsad (Gujrath)

4. Ritabein w/o Mohammadali Lakhani
Age: Major, Occu.: Business,
R/o. 'Aashiyana', 1st Floor, Kaachigaon Road,
Waapi, Tq.Pardhi, Dist.Balsad (Gujrath). ..Respondents
[R.Nos.1 & 2 : Orig. claimants
R.Nos.3 & 4 : Orig.R.Nos.1 & 2]

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Advocate for Appellant : Shri A.B.Kadethankar
Advocate for Respondent Nos.1 & 2 : Shri P.B.Patil
Respondent Nos.3 & 4 are served

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CORAM : P.R.BORA, J.

DATE: 24th August, 2018

ORAL JUDGMENT:-

1. The Judgment and award passed in Motor Accident Claim Petition No.40 of 2007, decided by the Motor Accident Claims Tribunal at Jalna on 10.01.2008, is challenged in the present appeal by the Insurance Company.

2. Present respondent Nos.1 and 2 had filed the aforesaid petition claiming compensation on account of death of their seven year old son namely Navnath in the motor accident happened on 19.09.2006. Deceased Navnath while returning from his school was dashed by the offending Mahindra Jeep and was severely injured. He died on the spot itself. The learned Tribunal after having assessed the evidence

on record, awarded compensation of Rs.2,04,500/- to present respondent Nos.1 and 2, who are the parents of deceased Navnath.

3. In the present appeal, the only objection raised by the appellant Insurance Company in exception to the impugned award is that while determining the amount of compensation on the basis of notional income of the deceased, the Tribunal has failed in not deducting the 1/3rd amount of the annual notional income of the deceased towards his personal expenses.

4. After having considered the submissions made on behalf of the appellant and on perusal of the impugned Judgment, it does not appear to me that while determining the amount of compensation in the present case, 1/3rd amount was liable to be deducted from the annual notional income of the deceased towards his personal expenses. The amount awarded by the Tribunal to the tune of Rs.2,04,500/-, inclusive of no fault liability compensation, no way can be held to be unreasonable or excessive. According to me, the compensation as awarded by the Tribunal is just and appropriate having considered the facts involved in the petition. I therefore, do not see any reason for causing any interference in the impugned

Judgment and award. The appeal being devoid of any merits, deserves to be dismissed and is accordingly dismissed, however, without any order as to the costs.

5. In view of dismissal of the appeal, pending civil application stands disposed of.

(P.R.BORA)
JUDGE

SPT