

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO. 920/2017

The OIC Ltd.

..VS..

Shivshankar Prabhatkumar Lohiya & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. A. Mategaonkar, Advocate for the appellant
Shri D.M. Khandait, Advocate for the respondent nos. 2 to 4

CORAM : Z.A.HAQ, J.

DATED : 20/08/2018

Heard.

The appellant/Insurance Company has challenged the award passed by the Motor Accident Claims Tribunal upholding the entitlement of the claimants for the amount of Rs. 7,67,000/- towards compensation alongwith the interest.

It is undisputed that Praful Dhandare (husband of the respondent no. 2 and son of the respondent nos. 3 and 4) died because of the injuries suffered by him in the accident in which the truck owned by the respondent no. 1 was involved. It is undisputed that the truck was insured with the appellant/Insurance Company at the relevant time. There is no dispute about the age of the claimants and the calculations made by the Tribunal considering the income of the deceased as Rs. 3,000/- per month. There is no dispute about the application of multiplier by the Tribunal.

The only point raised by the appellant/Insurance Company is that the truck, at the time of the accident, was driven by the cleaner who was not having the license to drive the vehicle. The appellant/Insurance Company has not been able to point out that this defence was raised in the written statement filed by it before the Tribunal and, evidence is brought on record to substantiate this defence. As the appellant/Insurance Company has not been able to show that it had raised the defence properly before the Tribunal, the point raised by the appellant/Insurance Company before this Court cannot be considered. I see no reason to interfere with the impugned award.

The learned advocates for the respective parties submit that the entire amount as per the impugned award was deposited by the appellant/Insurance Company and is withdrawn by the claimants.

In view of the above, the appeal is dismissed with costs quantified at Rs. 30,000/- to be paid by the appellant/Insurance Company to the respondent nos. 2, 3 and 4 (claimants) within two months. The appellant/Insurance Company shall produce receipt showing payment of costs on record of this appeal, within two months.

JUDGE