

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

FIRST APPEAL NO.1165 OF 2017
(Reliance General Insurance Co. Ltd., Nagpur .vs. Sunita Vinayak
Dahat and Ors.)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr.D.N.Kukday, Advocate for the appellant.
Mr.S.S.Alaspurkar, Advocate for respondent nos.
1 to 3.

CORAM : N. W. SAMBRE, J.

DATE : 1.10.2019.

Heard.

The appellant/Insurance Company has questioned award of compensation in favour of legal representatives of deceased Vinayak as was awarded by the Claims Tribunal vide impugned Judgment dated 7th March, 2017.

The accident in question occurred on 5.4.2013 when deceased Vinayak was riding motor cycle bearing registration No.MH-27 AB-9792 along with pillion riders, his wife and minor daughter, which was dashed by a Goods Vehicle bearing registration No.MH-13 AN 3197, which was coming from the opposite direction and which was insured with the appellant. As a consequences of the aforesaid accident, an offence came to be registered against the

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vehicle driver.

The Tribunal, after considering notional income of deceased Vinayak at Rs.6,000/- p.m., has awarded compensation by the impugned Judgment of Rs.14,75,000/-. As such, this appeal.

Submissions of Mr.D.N.Kukday, learned Counsel for the appellant are, deceased Vinayak was driving the two wheeler i.e. motor cycle in negligent manner,. According to him, there is no basis for considering the notional income of deceased at Rs.6,000/- p.m. Further submission is, award of compensation under the clauses of future prospects, loss of consortium, loss of affection is also not justified in view of Judgment of Apex Court in the matter of **National Insurance Co. Ltd. vs. Pranay Sethi.**

Considered the submissions. This Court in connected appeal bearing First Appeal No.1164 of 2017 has already in detail dealt with the documentary evidence on record to infer that the driver of the offending vehicle has given dash to the motor cycle of deceased Vinayak by driving the same in rash and negligent manner on curve/turning. There is sufficient material including that of Spot Panchanama to infer that the driver of the offending vehicle was driving the offending vehicle on the right side of the road.

As far as quantum of notional

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income is considered, though deceased Vinayak was holding 5 H, 21 HR land i.e. around 13 acres, the Tribunal disbelieved the income from the agricultural source to the tune of Rs.25,000/- per year and Rs.7,000/- income from brokership. The Tribunal considered Rs.6,000/- p.m. in a notional way and applied multiplier of 15 awarding compensation accordingly.

Award of compensation is prior to Judgment in the matter of Pranay Sethi (cited supra) and the Tribunal has rightly so considered the law existing on that date in the matter of **Smt.Sarla Verma and Others .vs. Delhi Transport Corporation and another** reported in A.I.R. 2009 SC 3104.

In view of above, no interference is warranted in the appeal in question. The appeal must fail. The same is dismissed.

The Claimants are entitled to withdraw the amount deposited by the appellant/Insurance Company.

Amount deficit, if any, is directed to be deposited within a period of eight weeks from today.

JUDGE