

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

FIRST APPEAL NO.1166 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.

This appeal is by the appellant/Insurance Company questioning award of compensation of Rs.4,57,730/-. The accident in question occurred on 5.4.2013 when the Claimant Sunita was pillion rider with her husband and daughter, on motor cycle bearing registration No.MH-27 AB-9792.

The offending vehicle which is insured with the appellant bearing registration No.MH-13 AN-3197 gave dash to two wheeler by driving the same in rash and negligent manner. As a consequences of above accident, Vinayak, husband of respondent no.1 lost his life, respondent no.1 and her daughter got injured resulting in Claim Petition. The Tribunal, after appreciating evidence, considering permanent disability to the extent of 30%,

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has awarded compensation of Rs.4,57,730/-.

While questioning the same, Mr.Kukday, learned Counsel for the appellant would urge that, apart from non-consideration of medical evidence, notional income of insured ought not to have been considered at Rs.6,000/- p.m. According to him, judgment impugned is not sustainable.

Mr.S.S.Alaspurkar, learned Counsel for the respondent/Claimant supports the impugned Judgment and sought dismissal.

This Court, while deciding connected First Appeal No.1164 of 2017, has already recorded a finding that the driver of the offending vehicle bearing registration No.MH-13 AN 3197 was driving the same in rash and negligent manner. Said findings of driving of offending vehicle in rash and negligent manner are based on the documents and oral evidence viz. F.I.R. and Spot panchanama.

Apart from above, Disability Certificate at Exh.53 has prevailed before the Tribunal to consider 15 % loss of future earning. As such, notional income of Rs.6,000/- p.m. was considered having regard to the date of accident.

In the aforesaid background, no case for interference is made out. The appeal fails. The same is dismissed.

The Claimant is entitled to withdraw the amount deposited by the appellant/Insurance Company.

Order

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

jaiswal

JUDGE