

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

C.A.F.No.383 of 2019 in F.A.St.No.29805 of 2018
(The Oriental Insurance Co. Ltd. vs. Smt Padma Sanjay Pete and
Ors.)

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

Court's or Judge's Orders

*Ms Anita Mategaonkar, Advocate for the
applicant/appellant.
Mr.Ateeb A. Syed, Advocate for respondent nos. 1
to 3.*

CORAM : N. W. SAMBRE, J.

DATE : 1.10.2019.

Heard.

In view of no objection given by the
learned Counsel for respondents, delay of 61
days caused in preferring the appeal stands
condoned.

First Appeal St.No.29805 of 2018

Heard learned Counsel for the
appellant.

Learned Counsel has made two
fold contentions; one that there is inordinate
delay in lodging the F.I.R. The accident took
place on 12.12.2011 whereas the F.I.R. was
lodged on 1.5.2012. According to her, there
is no explanation as to why the F.I.R. was
lodged almost after a period of five months.

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Next contention is, the income of deceased was considered on higher side, though he was serving as a Coolie in the rural area.

In support of claim under Workmen Compensation Act, claimant Padma examined herself and has also brought on record evidence of Dr.Shirish at Exh.35. The other witnesses to the incident in question were also examined by the Claimant. Copy of F.I.R., Spot panchanama, report of Superintendent of Police, R.C. book, Injury Certificate, Discharge Card were produced at Exh.34, 4/1, 24/13, Exh.36 etc. As far as the issue of delay in lodging F.I.R. is concerned, it appears that initially there was a Complaint lodged with the police. However, since no cognizance of the complaint was taken, parties were required to approach the Superintendent of Police, on whose instructions the F.I.R. came to be registered. Complaint lodged with Superintendent of Police on 10.1.2012 vide Exh.4/4 and registration of offence on 1.5.2012 vide Exh.4/2 has been rightly considered so as to infer that there was no delay on the part of the claimant as is alleged by learned Counsel for the appellant.

In the case in hand, the date of accident is 12.12.2011. Even if presuming that the deceased was working as a Coolie, the factum of his income considered by learned Tribunal @ Rs.5000/- p.m. and

Order

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deduction of 50 % towards personal expenses apparently justifies the order of grant of compensation.

No illegality could be noticed in the impugned Judgment/Award. The appeal fails. The same is dismissed.

JUDGE

jaiswal