

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

FIRST APPEAL NO. 78 OF 2017

The New India Assurance
Company Ltd., through its
Regional Manager,
Regional Office,
Dr. Babasaheb Ambedkar
Bhavan, M.E.C.L. Premises,
4th floor, High Land Drive,
Seminary Hills, Nagpur.

..... Appellant

.... Versus

1) Smt. Kavita Wd/o Chandrakant
Chikhalkar,
Aged about 36 years, R/o Tukaram
Chowk, Gorakshan Road, Akola,
Tq. and Dist. Akola.

2) Tarlochansing S/o Majorsingh,
Aged about Adult, Occ. Owner of
Tanker, R/o Plot No. 1103,
Road No. 12, K.W.C. Steel Market,
Kalamboli, Dist. Thane.

3) Smt. Malti Wd/o Vasantao
Chikhalkar,
Aged about 66 years, R/o Sakkardara
Chowk, Reshim Bagh, C/o Yogesh
Vasantao Chikhalkar, Plot No. 184,
Nagpur, Dist. Nagpur.

..... Respondents

Shri M. B. Joshi, Advocate for the appellant
Shri P. R. Agrawal, Advocate for respondent no. 1
Shri N. S. Deshpande, Advocate for respondent no. 3
None for respondent no.2

CORAM : M. G. GIRATKAR, J.

Date : 13/02/2020

ORAL JUDGMENT

This appeal is against the judgment of Motor Accident Claims Tribunal, Akola.

2. A short issue is involved in this appeal. As per the submission of learned Advocate Shri Joshi for the appellant, income tax and professional tax of Rs. 200/- per month are not deducted from the gross salary of deceased and, therefore, impugned judgment needs to be quashed and set aside.

3. Learned Advocate Shri Agrawal for the respondent no. 1 and Shri Deshpande for the respondent no. 3 have submitted that even Rs. 200/- is deducted from gross salary, then also, there will be no difference.

4. Learned Claims Tribunal granted compensation by not considering the peculiar damages as per the judgment of Apex Court in the cases of *National Insurance Co. Ltd. Vs. Pranay Sethi and others* [2017 ACJ 2700] and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & ors.* [2018(11)scale 247]. If it is added then

amount of compensation will be more. Hence, the appeal is without any merit and accordingly, it is dismissed with no order as to costs.

5. The original claimant/present respondent No. 1 – Smt. Kavita Wd/o Chandrakant Chikhalkar and original non-applicant No. 3/ present respondent No. 3 - Smt. Malti Wd/o Vasantrao Chikhalkar are permitted to withdraw amount of compensation deposited before the Motor Accident Claims Tribunal, Akola along with accrued interest, if any.

JUDGE

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