

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.929 OF 2007

New India Assurance Company Ltd.,
Having its Head and Registered office
at NewIndia Assurance Building, 87,
M.G.Road, Fort, Mumbai,
branch office at Beed, Divisional office
at Aurangabad

..Appellant

Vs.

1. Smt. Kamini Sudhir Munde,
Age : 32 years, Occ. Household,
r/o. Parali Vaijnath, Tq.parli Vaijnath,
Dist. Beed.
 2. Kumari Sukanya d/o. Sudhir Mundhe,
Age : 12 years, minor u/g. of No.1
 3. Kumari Sunayana d/o. Sudhir Mundhe,
Age : 12 years, Minor u/g. of No.1
 4. Vyankatesh s/o. Sudhir Mundhe,
Age : 7 years, Minor u/g. of No.1
- Respondent nos. 2 to 4 are under
guardianship of respondent no.1
5. Shahanik Baburao Mundhe,
Age : 68 years, Occ. Agri.,
r/o. Talegaon, Tq. Parli Vaijnath
Dist. Beed
 6. Vasant KishanraoMundhe,
Age 46 years, Occ. Agri.,
r/o. Majalgaon, at present
residing at Raweli, Tq. Parli Vaijnath,
Dist. Beed.

7. Dyanoba s/o. Mahadeo Aghaw,
Age : 31 years, Occ. Driver,
r/o. Dinapur, Tq. Parli Vajjnath,
Dist. Beed.

..Respondents

Mr.Mohit R. Deshmukh, Advocate for appellant
Mr.Abhijeet V. Thombre, Advocate for respondent nos.1 to 4
Mr.A.A.Munde, Advocate for respondent no.7
Mr.U.B.Bondar, Advocate for respondent no.5-absent

CORAM : R.G. AVACHAT, J.
DATE : DECEMBER 01, 2021

JUDGMENT :-

This is an insurance company's appeal taking exception to the judgment and award granting compensation of Rs.12,39,261/- on account of death in vehicular accident. The challenge is mainly on the ground of contributory negligence and quantum as well.

2. Heard learned counsel appearing for the parties. Perused the impugned judgment and award. Gone through the evidence in the case.

3. It was an accident between the motorcycle ridden by the deceased – Sudhir and a jeep. It was 04.01.2006 at about 6:15 p.m. The oncoming jeep (MH-23-B-10) dashed against the motorcycle ridden by deceased-Sudhir. On due investigation, the police have

charged the jeep driver for being responsible for the accident and the consequential death. The Tribunal appreciated the evidence in right perspective. The scene of offence panchnama indicates that the width of the road was 15 ft. with sidewalks of 5 ft. width on either side. The jeep left track, went to the wrong side and dashed against the motorcycle. This Court has, therefore, no reason to accept the submission of learned counsel for the appellant-insurance company that it was a case of contributory negligence.

4. On the question of quantum of compensation, the deceased was Headmaster of a school, drawing monthly pay of Rs.8,534/-. He was little over 30 years of age. The Tribunal, instead of applying multiplier of 16, applied multiplier of 17. Although, it might have erred in applying the correct multiplier, the respondents/claimants are very much justified in defending the amount of compensation. The claimants are five in number. Deduction towards personal and living expenses of the deceased, therefore, ought not to have been less than one fourth. The Tribunal has, however, deducted one third amount. As such, the amount of compensation granted under the impugned award was just and reasonable in the then prevailing circumstances.

5. In view of the above, no interference is warranted with the impugned judgment and award. The appeal is, therefore, dismissed. The amount in deposit be immediately paid to the respondents-claimants along with interest accrued thereon.

[R.G. AVACHAT, J.]

KBP