

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

FIRST APPEAL NO. 546 OF 2007

The United India Insurance Company Ltd. ... Appellant
Versus
Machhindra s/o Bhanudas Morale and others ... Respondents

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Mr. S. V. Kulkarni, Advocate for appellant
Mr. S. K. Naikwade, Advocate for respondent Nos. 1 to 4
Mr. S. S. Thombre, Advocate for respondent No.5

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CORAM : R. G. AVACHAT, J.

DATED : 25th NOVEMBER, 2021

PER COURT :-

. This is Insurance Company's appeal, taking exception to the judgment and award dated 24.01.2007, granting compensation of Rs.3,00,000/- (Rupees Three Lakh) on account of death in vehicular accident. The challenge is on the ground of quantum and validity of driving licence.

2. Heard Learned Advocate for the appellant – Insurance Company. Perused the impugned judgment and award. Gone through the evidence relied on.

3. Undisputedly, the accident took place between the tractor and the motorbike. On due investigation, the tractor driver has been proceeded against for being responsible for the accident. The deceased was proceeding in a bullock-cart. As a result of the impact, she fell off the cart and died of the injuries suffered. The claim was preferred by husband of the deceased and three minor children. The accident dates back to February 2001. The Tribunal, on considering the notional income of the deceased, granted compensation of Rs.3,00,000/- (Rupees Three Lakh, inclusive of claim under no fault liability.

4. The original claimants have neither preferred appeal nor filed cross objection for enhancement of compensation. This Court, therefore, cannot enhance the amount of compensation granted by the Tribunal.

5. The appellant – Insurance Company did not lead any evidence in support of its claim that the driver of the offending tractor did not hold a valid and effective driving licence. The Tribunal, therefore, negated its claim. This Court, finds no reason to interfere with the said findings and the impugned award as well.

6. In the result, the appeal fails. The same is therefore, dismissed.

7. The amount in deposit, be paid to the respondents – claimants, immediately, with interest accrued thereon.

[R. G. AVACHAT, J.]

SMS