IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2829 OF 2017

The Oriental Insurance Co. Ltd.,
Through its Divisional Manager,
Adalat Road, Aurangabad ..Appellant

Vs.

1. Dattatraya Janardhan Wandhekar,
Age : 37 years, Occ. Agri.,
r/o. Mukindpur, Tq. Newasa,
Dist. Ahmednagar

2. Jawed Mohammad Latif Mansuri,
Age : Major, Occ. Business,
r/o. Vicky Colony, Shirpur,
Tq. Shirpur, Dist. Dhule

3. Siraj Mahammad Fakruddin,
Age : Major, Occ. Driver,
r/o. Gawadi, Tq. Nivali,
Dist. Badwani (Madhya Pradesh) ..Respondents

Mr.A.G.Kanade, Advocate for appellant
Mr.R.B.Deshpande, Advocate for respondent no.1

CORAM : R.G. AVACHAT, J.
DATE : OCTOBER 08, 2021

ORDER :-

The insurance company has filed this appeal challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Newasa ("the Tribunal", for short) in Motor Accident Claim

Petition No.384 of 2014. Vide the impugned judgment and award, a sum of Rs.7,33,979/- has been directed to be paid as compensation with interest at the rate of 6% per annum.

2. The claim petition was filed by the son for compensation on account of death of his father-Janardan in an accident involving motor vehicle. The deceased-Janardan was a retired school teacher. He breathed his last at the age of 65 years. The Tribunal granted compensation on account of loss of dependency of Rs.6,04,860/-. Rest of the amount under other heads is reimbursement of medical expenses, loss of love and affection, etc.

3. Mr.A.G.Kanade, learned counsel for the appellant – insurance company, would submit that the claimant was not depending on the deceased. The claimant has admitted to have been in service as a primary teacher. According to learned counsel, the Tribunal, therefore, ought not to have awarded compensation on account of loss of dependency.

4. Mr.R.B.Deshpande, learned counsel for the respondent-claimant, would, on the other hand, submit that the deceased and the claimant were residing together. The deceased used to

contribute his entire pension for maintenance of both of them. As such, due to untimely demise of the father, the claimant suffered incalculable loss and his financial support discontinued, as a result of which, the standard of living of the claimant has been affected. Learned counsel further submitted that the Tribunal has not awarded compensation on account of loss of consortium and future prospects. He, therefore, urged for dismissal of the appeal.

5. It was a family of the claimant and his father (deceased). Although the father was claimed to be 67 years of age when he breathed his last, there was evidence to suggest that he was 72 years of age when he met with the accident. The deceased was a pensioner. The claimant is the only son of the deceased. Both were residing together. Although the claimant has been serving as primary teacher, due to untimely death of his father, he lost financial support. It, therefore, could not be said that the claimant was not depending on the deceased. It, however, appears that the amount of compensation awarded is on higher side. To meet the ends of justice, it would be desirable to reduce the amount of compensation granted by the Tribunal, by Rs.1,00,000/-.

6. The appeal, therefore, partly succeeds in terms of the following order:-

(i) The appeal is partly allowed.

(ii) The impugned award is modified reducing the amount of compensation to Rs.6,33,979/-. Rest of the terms of the impugned award to stand unaltered.

(iii) The amount in deposit, if any, with this Court or the Tribunal, be paid to the claimant along with interest accrued thereon.

(iv) Balance amount, if any, be paid back to the insurance company with interest accrued thereon.

[**R.G. AVACHAT, J.**]

KBP