

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

FIRST APPEAL NO. 689 OF 2015

The New India Assurance Company Ltd.
Through Manager at 4th Floor, MECL
Premises, Dr. Ambedkar Bhawan,
Seminary Hills, Nagpur

} .. **APPELLANT**

Versus

1. Prakash s/o Sudhakar Naktode
Age – 41 yrs. Occu. Driver & Owner
R/o 2nd Nagoba Temple, Ratanganj, Near
Yusuf Gotiwale's Residence, Amravati
2. Smt. Vaishali Dharmendra Shegokar,
Age – 28 yrs, Occu. - Household work
3. Ku. Anjali Dharmendra Shegokar
Age – 1½ yrs. Occu. Nil
4. Sau. Laxmi Pandurang Shegokar,
Age – 65 yrs. Occu. Household work

} .. **RESPONDENTS**

Respondents No.2 to 4 R/o Sarswati
Nagar, Amravati Tq. & District Amravati
Respondent No.3 being minor through
natural guardian mother respondent No.2

Mrs. Anita Metegaonkar, Advocate for the appellants

CORAM: V.M. DESHPANDE, J.

DATE : 16/12/2021

ORAL JUDGMENT :

This is an appeal challenging the judgment and Award
dated 06/01/2015, passed by the learned Member, Motor Accident

Claims Tribunal, Amravati in M.A.C.P. No. 103/2011. Under the said Award, the learned Member of the Tribunal allowed the Claim Petition filed on behalf of the respondents and directed the present appellant and respondent No.1 to pay Rs.21,25,000/- along with interest @8% from the date of petition, till realization to the present respondents No.2 to 4. Under the Award itself apportionment is also made by the learned Tribunal.

2. Heard Smt. Anita Mategaonkar, learned counsel for the appellant – insurance company. The counsel for the respondents chose not to remain present when this appeal was taken up for hearing.

3. According to the learned counsel for the appellant, the learned Tribunal has committed error in fixing the monthly income of the deceased as Rs.11,000/-. Except this no other point was canvassed or agitated before this Court. Thus, the scope of the appeal is very limited.

4. Deceased is Dharmendra Pandurang Shegokar. Original claimant No.1 is his wife, claimant No.2 is daughter and

claimant No.3 is his mother.

5. The accident took place on 24/05/2010 when Dharmendra was riding motorcycle and that time offending Truck No. GJ-12/V-8162 gave a dash from back side, resulting into the instant death of Dharmendra. Exh.22 is the spot panchanama. The learned Member has rightly found that the recitals of the panchanama (Exh.22) clearly shows that the deceased was on the right side and dash was given from the back side of his motorcycle.

6. The claimant No.1 entered into the witness box. She also examined one Kunal Sahani as claimant's witness No.2.

7. As per the claim of the claimants at the relevant time, deceased was working in WINGS and he used to draw a salary of Rs.15000/- per month. PW 2 Kunal Sahani, Manager in the WINGS, who was authorized by its proprietor to depose states that deceased Dharmendra was looking after the work of firm at Amravati and he was being paid salary of Rs.15,000/- per month. He proved his salary certificate (Exh.55). He is cross-examined on behalf of the appellant - insurance company. More

thrust of the cross-examination as it could be seen is that he has not brought documents on the basis of which salary certificate (Exh.55) was issued. The salary certificate was filed along with list Exh.26. Therefore, if the insurance company was doubting anything about the same, an appropriate application for production of the documents ought to have been made, however, nothing that sort of exercise was undertaken by the insurance company.

8. The learned Member has rightly deducted Rs.4000/- towards the personal expenses of the deceased and fixed the monthly income at Rs.11,000/-. The age of the deceased is also not disputed at any point of time. It is also not in dispute before this Court by the insurance company that wrong multiplier was applied by the Tribunal.

9. After having read the entire judgment with the assistance of learned counsel for the appellant and also after perusing the evidence, I am of the view that the appeal filed on behalf of the appellant is not having any merit. Hence, the appeal is dismissed.

10. The original claimants shall at be at liberty to withdraw the remaining amount from and out of the amount deposited by the appellant in this Court with accrued interest.

11. The appeal is dismissed. No costs.

JUDGE

MP Deshpande