

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

FIRST APPEAL NO.930 OF 2013

Appellant : **The New India Assurance Co. Ltd.**
(Org. Res. No.3)
On R.A. Branch at Sholapur through Divisional Manager,
"Volcut Compound", Hotel 7 Hills Building,
At PO. Tq. Distt. Chandrapur.

-- Versus --

Respondents : **1] Sanjay s/o Vithoba Dukre,**
(Org. Petitioner No.1)
On R.A. Aged about 27 years, Occ. Nil,
R/o Near Water Reservoir, Kalamb,
Tq. Kalamb, Distt. Yavatmal.

Appeal is dismissed
against Res. No.2 vide
Registrar (J)'s order
dated 24/04/2013.

~~**2] Balu s/o Vithal Patil,**~~
~~Aged about 32 years, Occ. Truck Driver,~~
~~R/o At Hijadi, Tq. Mudkhed, Distt. Nanded.~~

(Org. Res. No.2)
On R.A.

3] Kalyanswami Kashinath Nilanginath,
Age not known, Occ. Truck Owner,
Hipparga, Tq. North Sholapur, Distt. Sholapur.

WITH

FIRST APPEAL NO.38 OF 2014

Appellant : **The New India Assurance Co. Ltd.**
(Org. Res. No.3)
On R.A. Branch at Sholapur through Divisional Manager,
"Volcut Compound", Hotel 7 Hills Building,
At PO. Tq. Distt. Chandrapur.

-- Versus --

Respondents : **1] Dilip s/o Pralhad Bhoyar,**
(Org. Petitioner No.1)
On R.A. Aged about 26 years, Occ. Nil,
R/o Near Water Reservoir, Kalamb,
Tq. Kalamb, Distt. Yavatmal.

Appeal is dismissed
against Res. No.2 vide
Registrar (J)'s order
dated 24/05/2017.

~~**2] Balu s/o Vithal Patil,**~~
~~Aged about 32 years, Occ. Truck Driver,~~
~~R/o At Hijadi, Tq. Mudkhed, Distt. Nanded.~~

(Org. Res. No.2)
On R.A.

3] Kalyanswami Kashinath Nilanginath,
Age not known, Occ. Truck Owner,
Hipparga, Tq. North Sholapur, Distt. Sholapur.

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Shri A.W. Paunikar, Advocate for the Appellant.
Shri Bharat Vora, Advocate for Respondent No.1.

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CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 16nd FEBRUARY, 2021.

ORAL JUDGMENT :-

The appellant-Insurance Company has challenged the impugned judgment and award passed by the Motor Accident Claims Tribunal, Yavatmal (hereinafter referred to as the 'Claims Tribunal' for short) in M.A.C.P. No.500/2003.

02] By the impugned judgment, the Claims Tribunal has awarded compensation of Rs.88,760/- to respondent No.1-original claimant in respective appeals. Respondent No.1 in these two appeals, had filed a claim petition under Section 166 of the Motor Vehicles Act, which is arising out of the motor vehicular accident occurred on 05/08/2003 involving Motorcycle No.MH-29/H/4161, Truck No.MWT-3003 and stationary Truck No.CG-08/ZC/0399. It was the case of the claimants that they were the pillion riders on motorcycle and when they reached near Belona at about 11:00 p.m., Truck No.MWT-3003, which was

ahead of the motorcycle, dashed against the stationary Truck No.CG-08/ZC/0339. As a consequence thereof, the motorcycle dashed against the Truck No.MWT-3003. The claimants sustained grievous injuries in the said accident. They claimed that the accident was caused due to rash and negligent driving of the driver of the Truck No.MWT-3003. The claimants, therefore, claimed compensation from the driver, owner and the insurer of the said offending vehicle.

03] The Claims Tribunal, after considering the pleadings as well as the oral and documentary evidence on record, held that the accident was caused due to rash and negligent driving of the driver of the offending vehicle. Considering the age of the claimants and also their earning capacity, the Claims Tribunal awarded compensation of Rs.88,760/- to each of the claimants. Being aggrieved by the judgments and awards, the appellant-Insurance Company has filed these appeals under Section 173 of the Motor Vehicles Act.

04] The short point for my consideration is, whether the compensation awarded by the Claims Tribunal is just and reasonable. A perusal of the record indicates that the claimants were young boys of 26-27 years of age. They had sustained grievous injuries in the said accident. Claimant-Sanjay Dukre had suffered permanent disablement to the extent of 9%, whereas, claimant-Dilip Bhoyar had sustained

grievous injuries, resulting in permanent disablement to the extent of 15%.

05] The medical evidence on record indicates that claimant-Dilip was admitted in Government Medical College, Nagpur from 06/08/2003 to 13/08/2003. He had sustained grievous head injury with hemorrhagic contusion left parietal bone with cerebral oedema resulting into clotting of blood in left part of the brain. Similarly, claimant-Sanjay was also admitted in the Government Medical College, Nagpur from 06/08/2003 to 14/08/2003. He had sustained head injury and injuries to chest, pelvis and spine. It is true that the Claims Tribunal has erred in applying multiplier of 18 instead of 17. However, considering the nature of injuries, the period of treatment undergone, excluding permanent disablement, pains and suffering etc., compensation of Rs.88,760/- cannot be considered as exorbitant. Under the circumstances, the appeals have no merits and are accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

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