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

FIRST APPEAL NO. 1147 OF 2004

New India Assurance Company Limited
Having its Head and registered office at
New India Assurance Building, 87,
Fort Mumbai and having its
Divisional Office at Aurangabad
and Osmanabad.
. **..APPELLANT**
(Original respondent no.3)

VERSUS

1. Jayashree Chandrakant Harbarao
Age : 30 years, Occ : Household,
R/o Updai, Tq. Kallam, Dist. Osmanabad

2. Tanaji Arun Vibhute
Age : 40 years, Occ : Driver,
R/o Chinchgaon, Tq. Madha,
Dist. Sholapur

3. Bhimrao Bhaurao Kadam
Age : Major, Occ : Business,
R/o Wadgaon, Tq. Tuljapur,
Dist. Osmanabad
(Appeal dismissed as against
Respondent No.3 vide Registrar's
order dated 02.09.2008)

. ..**RESPONDENTS**
(R. No.1 – Ori. Claimant
& R.Nos.2 & 3 - Original R.Nos.1 and 2)

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Advocate for Appellant : Mr.M.R. Deshmukh
Advocate for Respondent No.1 : Mr. S.S. Jadhavar

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CORAM : S.G.DIGE, J.
DATE : 07.10.2022

JUDGMENT :

Being aggrieved by the judgment and award passed by the Motor Accident Claims Tribunal, Osmanabad (for short, “the Tribunal), the appellant-insurance company (original respondent no.3) preferred this appeal.

2. It is contention of the learned counsel for the appellant that deceased- Chandrakant Harbare was injured in the accident occurred on 30th June, 1997. No claim petition was filed before the Tribunal for getting compensation inspite of injuries occurred to the deceased. Thereafter the deceased Chandrakant committed suicide on 2nd December, 1997. After his death, the claim petition was filed for getting compensation, which is allowed by the Tribunal on the ground that the deceased had committed suicide due to mental agony of accidental injuries. The learned counsel further submits that there is no evidence on record to prove that the deceased committed suicide due to

accidental injuries, inspite of that the liability is fastened on the appellant, which is improper and illegal. Hence requested to allow the appeal.

3. It is contention of the learned counsel for respondent no.1 that the deceased was injured in the accident. He was admitted in civil hospital, Osmanabad for treatment. Thereafter, he was shifted at Solapur in Doctor Iyers Hospital. Due to accidental injuries, he committed suicide. The order passed by the Tribunal is legal and valid.

4. I have heard both the learned counsel. Perused the judgment and order passed by the Tribunal.

5. The issue involved in this appeal is whether the compensation awarded by the Tribunal considering the suicidal death of the deceased is proper or not ?

6. The Tribunal has observed that the accident was occurred on 30th June, 1997 and the deceased committed suicide on 2nd December, 1997 i.e. within a period of six months from the date of accident, in which he received

serious injuries. The possibility of committing suicide by him because of his disability due to accidental injuries can not be ruled out. The parties have not brought any evidence on record to show that there was no other reason for the injured to commit suicide, therefore, the Tribunal has held that the deceased committed suicide because of the accidental injuries.

7. The reasoning given by the Tribunal in respect of suicidal death of the deceased are rediculous. During life time of deceased, the deceased had not filed any claim petition regarding injuries sustained by him due to the accident. No suicidal note is produced on record to show that, the deceased died due to accidental injuries. Mere by figment of imagination, the Tribunal has come to the conclusion that the deceased committed suicide due to the accidental injuries, is perverse approach adopted by the Tribunal. It seems that the Tribunal has not considered the provision of law while deciding the claim petition and has swayed away in the emotions.

8. In view of the above, I pass the following order :-

ORDER

(i) The appeal is allowed.

(ii) The judgment and award dated 19.12.2003 passed by the District Judge and Ex-Officio Member, Motor Accident Claims Tribunal, Osmanabad is hereby quashed and set aside to the extent of appellant – insurance company. The appellant – insurance company is exonerated from paying the amount of compensation to respondent no.1-original claimant.

(iii) The appellant – insurance company is permitted to withdraw the amount deposited if any along with accrued interest thereon including the statutory amount.

(iv) The appeal is disposed of accordingly.

(v) The civil application, if any, the same stands disposed of.

[S.G.DIGE]
JUDGE

SGA/-