

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1392 OF 2015

1. Smt. Kusum Balkrishna Rajpure	}	
2. Dhnyaneshwari Balkrishna Rajpure	}	
3. Swati Balkrishna Rajpure	}	
All are R/at Hadapsar, Malwadi,	}	
Pune-411 028	}	...Appellants

Versus

1. Shri.Pandurang Motiram Jarad	}	
2. Baburam Raosaheb Dhumal	}	
Both R/at Nimbodi, Post Parwadi,	}	
Tal.Baramati, District-Pune	}	
3. The New India Assurance Co. Ltd.	}	
Regional Office 2420, Gulmohar Apt.,	}	
General Thimayya Road, Pune-411 001	}	...Respondents

Mr.Vivek Salunke, for the Appellant.
Mr.D.R. Mahadik, for Respondent No.3.

CORAM : S.G. DIGE, J.

DATE : 7 FEBRUARY 2023

JUDGMENT :-

1. The issue involved in this Appeal is awarding the interest.

2. It is contention of the learned counsel for the Appellant that the Tribunal has awarded the compensation to the Appellants/Claimants. While awarding the compensation the

Tribunal has directed to pay the interest from 19 November 2011 where as the Claim Petition was filed in the year 1992. The said interest was not awarded from the date of filing Claim Petition. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent that initially the Claim Petition was allowed ex-party against Opponent No.1 driver. The said order was set aside by the Tribunal on 19 November 2011. There was no fault of the Respondent No.3 to delay the matter, hence the order passed by the Tribunal is proper.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Pune (for short 'the Tribunal').

5. The issue involved in this Appeal is the date of interest on compensation while dealing with the issue the Tribunal has considered that there was no negligence on the part of the Opponent No.3 Insurance Company for causing delay. The matter is delayed due to Opponent No.1, therefore the Tribunal has awarded interest from the date of restoration Application i.e. from 19 November 2011.

6. I am unable to understand the observation's of the Tribunal, when it is settled principle of law that interest on compensation is from date of filing of Claim Petition. Section 171 of Motor Vehicles Act, 1988 states about award of interest. It read thus:-

Section 171 :- Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

7. This Section specifically states about award of interest not earlier of filing Claim Petition. Though exparte order is set aside against Opponent No.1., it does not mean that the Claimants are entitled for the interest on the compensation amount from the date of setting aside order. The Claimants are entitle for the interest on the compensation amount from filing Claim Petition. Hence, I pass following order:-

ORDER

(i) The Appeal is allowed.

(ii) The order passed by the Tribunal is modified as under:-

The Claimants are entitled for interest @ 7.5 % per annum on the compensation amount of Rs.3,99,000/- from the date of the filing of the Petition till realization of the amount.

(S.G. DIGE, J.)