

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 57 OF 2017

National Insurance Co. Ltd.

a Company incorporated under the Companies Act,
1956 having its registered office at Division No.XIX,
2nd Floor, Sterling Cinema Building, 65, Murzban
Road, Fort, Mumbai-400 001

.... Appellant

Versus

1. Manisha Pandurang Jadhav
2. Swapnil Pandurang Jadhav
3. Birappa Namdeo Jadhav
4. Dhondabai Birappa Jadhav
All R/o. A/289, IPCL Colony, Nagothane,
Tal. Roha, Dist. Raigad.
5. Minu S. Bindal
R/o. Pipe Nagar, Sukeli Gaon,
Tal. Roha, District Raigad
6. The Oriental Insurance Company Ltd.
Gopal Niwas, Pen Dharamtar Road,
Opp. Moreshwar Talkies Pen, Dist. Raigad
7. Nohappa Potappa
R/o. Mohane, Behind Police Station
Tal. Kalyan, Dist. Raigad

.... Respondents

.....

Ms. Shalini Shankar, Advocate for the Appellant.

Mr. Sandeep Sharad Jinsiwale, Advocate for Respondent No.6

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CORAM : SHIVKUMAR DIGE, J.

DATE : 12th DECEMBER, 2023

JUDGMENT :

1. The issue involved in this appeal the income of deceased is considered on higher side.

2. It is the contention of learned counsel for the appellant that the Tribunal has considered Rs.8,000/- per month as income of deceased without evidence on record which is on higher side and on that basis compensation is awarded. Hence, requested to allow the appeal.

3. Learned counsel for the respondent No.6-Insurance Company submitted that while awarding compensation the Tribunal has considered all the aspects and on that basis the Tribunal has awarded compensation, hence no interference is required in it.

4. None present for respondent Nos. 1 to 4-claimants.

5. I have heard both learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Mangaon (for short "the Tribunal"). To prove the income of deceased claimants have examined Claimant No.1 at Exhibit-30 she has stated that deceased was working in IPCL Technician Company, Nagothane at Roha and he was getting salary of Rs.8,000/- per month. While dealing with the issue of income of deceased, the Tribunal has observed that considering the age of deceased and size of his family and deducting 2/3rd amount for personal expenses the Tribunal has considered the salary of deceased at Rs.5,333/- per month. I do not find any infirmity in it. Moreover, it has come on record that claimants have spent more than Rs.80,000/- for medical treatment of the deceased but it was not considered by the Tribunal.

6. Considering the evidence on record, the monthly income of deceased considered by the Tribunal is proper and no interference is required in it and I pass following order:

ORDER

- i. The appeal is dismissed. No order as to costs.
- ii. Respondent Nos. 1 to 4 /claimants are permitted to withdraw the amount deposited by the Appellant-Insurance Company along with accrued interest thereon.
- iii. The statutory amount along with accrued interest be transferred to Motor Accident Claim Tribunal, Mangaon (for short “the Tribunal”) .
- iv. The parties are at liberty to withdraw it as per rule.

7. The appeal is disposed off.

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(SHIVKUMAR DIGE, J.)