

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 408 OF 2024

The New India Assurance Company Ltd.,) Appellant
 Divisional Office, Near Parvati Talkies,) (Orig.
 'E' Ward, Kolhapur) Opponent
) No.2)

Versus

- 1 Shri Sarjerao Shankar Mandavkar)
 Age : 30 years, Occ : Agri & Labour)
- 2 Sou. Alka Sarjerao Mandavkar)
 Age : 25 yrs., Occu.: Agri. & Labour)
 Both residing at Jargi,) Respondents
 Tal : Gaganbavada, District – Kolhapur) (Orig.
 Claimants)
- 3 Shri Surendrapal @Surendrabhai Hansraj Bhatiya) Respondent
 Age : 45 years, Occ : Transport,) (Orig.
 R/O : Villakoth, Near Ramaji Mandir, Geamkoth,) Opponent
 Taluka Dholka, Dist.: Ahmedabad, Gujarat State) No.1)
 ... Respondents

Mr. Shubham Misar i/b. H.G.Misar, Advocate for the Appellant.
 Mr. Jayant J. Bardeskar, Advocate for Respondent Nos.1 & 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th MARCH, 2024.Oral Judgment :

1. The issue involved in this Appeal is compensation awarded on higher side.
2. It is contention of learned counsel for the Appellant that at

the time of accident, deceased was 6 years old and the Tribunal has awarded compensation of Rs.5,00,000/-, which is on higher side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondents/Claimants that Tribunal has considered all the aspects while passing judgment and order. Moreover, as per view of Hon'ble Apex Court in the case of *Meena Devi vs. Nanu Chand Mahto alias Nemchand Mahto & Ors. (2023) 1 SCC 204*, the Claimants are entitled for Rs.5,00,000/-. The order passed by the Tribunal is legal and valid and no interference is required in it.

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

5. Admittedly, at the time of accident deceased was 6 years old. As per view of Hon'ble Apex Court in the case of **Meena Devi (*supra*)** the child who died in the accident was about 12 years old and the Hon'ble Apex Court has awarded compensation of Rs.5,00,000/-. In the present case, the deceased was 6 years old. The ratio laid down by the Hon'ble Apex Court in the above case is squarely applicable to the present case.

6. In view of above, I pass following order.

ORDER

- i. Appeal is dismissed.
 - ii. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
7. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)