

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 621 OF 2007

- 1 Umesh Kalekhan Jadhav
Age : 34 years, Occ : Labourer
 - 2 Sou. Babita Umesh Jadhav
Age : 30 years, Occ. Household
No. 1 and 2 R/o. Tembalai Naka, Railway Gate,
Zopadpatti, Kolhapur, Now R/o. Premnagar
Zopadpatti, Miraj
- ... Appellants

Versus

- 1 Chandrakant Nagoji Trymbake
Age : 40 years, Occ : Service-Driver
R/o. Kasarwadi, Pune, Dist. Pune
 - 2 Nandakishor Ramchandra Khandare
Age: Major, Occ : Vehicle Owner and a Trader
R/o. Bhosale Pagare Tower, Preetam Bldg.,
Flat No. 17, Dapodi, Dist. Pune-12.
 - 3 National Insurance Company Ltd.
Regional Office, 1248-A, Shivajinagar,
Deccan Gymkhana, Pune-4.
- ... Respondents

.....

Ms. Pratiksha C. Keni i/b. S. D. Patil, Advocate for the Appellants.

Ms. Poonam Mital, Advocate for Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 4th APRIL, 2024

ORAL JUDGMENT :

1. By this appeal appellants/claimants are seeking enhancement of compensation.
2. It is contention of learned counsel for the appellants/claimants that at the time of accident the deceased was 1½ year old. She died due

to accident but the Tribunal has awarded compensation of Rs.50,000/- without interest it is erroneous. Learned counsel relied on ***Meena Devi V/s. Nanu Chand Mahto @ Nemchand Mahto and Ors.*** arising out of Special Leave Petition (Civil) No.5345 of 2019.

3. Learned counsel for respondent No.3/Insurance Company submitted that the Tribunal has considered all the aspects while passing Judgment and Order, hence no interference is required in it. Learned counsel further submitted that the Tribunal has passed pay and recovery order which is proper as there was breach of terms and conditions of insurance policy.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Sangli (for short “**the Tribunal**”). Admittedly, due to accident the child of claimant aged 1½ year is died. While awarding compensation the Tribunal has observed that the child was 1½ year, the compensation paid under no fault liability is sufficient to discharge the liability, therefore, the Tribunal has awarded the amount of Rs.50,000/- without interest as compensation. I am unable to understand the observations of the Tribunal for not awarding the compensation. As per view of Hon’ble Apex Court in *Meena Devi (supra)* claimants are entitled for Rs.5,00,000/- as compensation amount.

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

ORDER

- (i) The Appeal is allowed.
- (ii) Claimants are entitled to Rs.5,00,000/- @7.5% interest per annum from the date of filing claim petition till realisation of amount.
- (iii) The respondent No.3/Insurance company shall deposit the enhanced amount along with accrued interest thereon before the Tribunal within six weeks after receipt of the order.
- (iv) The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
- (v) The respondent No.3/Insurance Company is at liberty to recover the amount from owner of the offending vehicle as directed by the Tribunal.
- (vi) Appellants/claimants shall pay deficit court fees on the enhanced amount.
- (vii) Pending applications, if any, also disposed of.

(SHIVKUMAR DIGE, J.)