

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 327 OF 2019

The New India Assurance Company Ltd.
In front of Baramati Municipal Council Bhigwan
Chowk, Baramati, Dist. Pune

... Appellant

Versus

1. Ranjana Ankush Kudale
Aged : 37 years, Occu : Household & Labour
2. Bhagubai Ramchandra Kudale
(Died, hence deleted)
3. Dattatrayaankush Kudale
Aged : 22 years, Occu : Labour
4. Satish Ankush Kudale
Aged : 20 years, Occu : Labour
All R/o: Pimpali, Tal: Baramati, Dist – Pune

Respondents
(Orig.
... Applicants)

5. Sukhdev Namdev Kand
Age : Major, Occu : Business
R/o : Lonikand, 12th Mail Vasti,
Tal. Haveli, Dist – Pune

(Org.
... Respondent)

.....

Ms. Shalini Shankar, Advocate for the Appellant.

Mr. Bhalchandra S. Shinde a/w. Mr. Ganesh Pawar, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 3rd JANUARY, 2024.

JUDGMENT :

1. The issue involved in this appeal is deduction of amount for personal expenses and the claimants who are sons of deceased cannot be considered as dependent as they are major.

2. It is the contention of learned counsel for the appellant that Claim Petition was filed by the 4 claimants. During the pendency of the Claim Petition, Claimant No.2 i.e. mother of deceased died but while awarding compensation the Tribunal has deducted $1/4^{\text{th}}$ amount for personal expenses it should be $1/3^{\text{rd}}$. Learned counsel further submitted that claimant Nos. 3 and 4 are major and their occupation is shown as labour, so they cannot be considered as dependent of deceased, hence requested to allow the appeal.

3. It is the contention of learned counsel for the respondent No.1/claimant that the Tribunal has considered all the aspects while passing Judgment and Order and no interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Baramati (for short "**the Tribunal**"). In respect of the deduction of amount for personal expenses, it appears from the record that Claim Petition was filed by 4 claimants. During the pendency of the Claim Petition, claimant No.2 was died hence the Tribunal has rightly deducted $1/4^{\text{th}}$ amount for personal expenses. In respect of issue of claimant Nos. 3 and 4 are major, it is the contention of learned counsel for the appellant that they cannot be considered as dependent. It has come in the evidence of PW-1 i.e. wife of deceased that, deceased was maintaining their family. The claimant Nos.

2 and 3 are of 20 and 22 years old, so it cannot be said that they are not depending upon the deceased. No evidence produced on record by the appellant to prove that they were not dependent nor in cross examination of the witnesses no question was put to the witness that they are independent and they are earning money.

5. In view of the above above, I pass following Order:

ORDER

- (i) The appeal is dismissed. No order as to costs.
- (ii) The claimants are permitted to withdraw the compensation amount deposited along with accrued interest thereon.
- (iii) Statutory amount along with accrued interest thereon be transmitted to the Tribunal. Parties are at liberty to withdraw it as per Rule.

6. The appeal is disposed of.

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(SHIVKUMAR DIGE, J.)