

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 25 OF 2024

United India Insurance Company Limited]
Branch Office – Matoshri Plaza, Office,]
No.301, 3rd Floor, Venus Corner,]
Shahpuri, Kolhapur.]

Through it's Regional Manager,]
United India Insurance Company Limited,]
Mumbai Regional Office-II, T.P. Hub,]
4th Floor, Union Co-op Insurance Building,]
Sir P.M. Road, Fort, Mumbai – 400 001.]

.... Appellant
(Original
Opponent
No.2).

Versus

1. Bhimrao Malhari Kamble]
Aged 62 years, Occ:- Labourer]

2. Anjana Bhimrao Kamble]
Aged – 46 Years, Occu- Housewife]

3. Anita Bhimrao Kamble]
Aged – 35 years, Occu-Education]

Respondent Nos. 1 to 3 all R/o:- Balinga,]
Tal:- Karveer, District:- Kolhapur.]

4. Rajendra Shivaji Nale]
Age- Major, Occ-Business]
R/o. 112, Krantising Nana Patil Nagar,]
Phulewadi Ring Road, Kolhapur.]

5. Manohar Rangrao Patil]

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- Age- 40 Years, Occ- Driver]
R/o., Padali Khurd, Tal. Karveer,]
District:- Kolhapur.]
6. Dilip Bhikaji Phondake]
Age Major, Occ-Owner of the Tata Truck]
R/o. Asalade, Tal. Kankavali,]
District:- Sindhudurg]
7. Oriental Insurance Company Limited]
Office:- 16 Chintamani Park,]
Ground Floor, Opp. Gango Tample,]
Mumbai-Goa Highway, Kankavali,]
Tal:- Kankavali, District:- Sindhudurg]
- Branch Officer:-204/E, Kanchanjanga,]
Opp. Panchshil Hotel, Station Road,]
S. T. Stand, Kolhapur.]
8. Deepak Babaji Ghugare]
Age: Major, Occ: Driver,]
R/o. Darum Bhogalewadi,]
Tal:- Kankavali, District: Sindhudurg.]

.... Respondents

Adv. Amol Gatne, for the Appellant.
Adv. Pritesh K. Bohade, for Respondent Nos.1 to 3.
Adv. S. S. Dwivedi, for Respondent No.7.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th DECEMBER, 2024.

ORAL JUDGMENT :

1. The issue involved in this appeal is deduction of the amount for personal expenses.

2. It is contention of learned counsel for the Appellant that at the time of accident deceased was bachelor. The Tribunal has deducted $\frac{1}{3}$ amount for personal expenses, it should be $\frac{1}{2}$ amount. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for Respondent Nos.1 to 3 that he has no objection for deduction $\frac{1}{2}$ amount for personal expenses.

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

5. While calculating the compensation, the Tribunal deducted $\frac{1}{3}$ amount for personal expenses. However, at the time of the accident, the deceased was a bachelor, therefore, the Tribunal should have considered $\frac{1}{2}$ amount for personal expenses instead of $\frac{1}{3}$. The Tribunal has awarded total compensation of Rs.23,96,400/-. If $\frac{1}{2}$ of the amount is deducted for personal expenses instead of $\frac{1}{3}$, the total compensation comes to Rs. 18,34,400/-. The excess amount comes to Rs.5,62,000/-.

6. In view of the above calculations, the Appellant/Insurance Company entitled for excess amount.

7. In view of above, I pass following order:

ORDER

- i. Appeal is allowed.
 - ii. The Appellant is permitted to withdraw the excess amount of Rs.2,81,000/- from deposited amount along with accrued interest thereon.
 - iii. The Claimants are permitted to withdraw rest of the amount along with accrued interest thereon.
 - iv. The statutory amount be transmitted to the Tribunal.
The parties are at liberty to withdraw it, as per Rule.
 - v. Record and Proceedings be sent back to the Tribunal.
8. All pending applications, if any, stands disposed of.

(SHIVKUMAR DIGE, J.)