IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1465 OF 2025
IN FAST/26010/2024

Rakesh Sugesh Valvi And Anr
VERSUS
National Insurance Co Ltd And Ors

AND
CIVIL APPLICATION NO. 1490 OF 2025
IN FAST/26035/2024

Jayesh Bharat Gavit And Anr
VERSUS
National Insurance Co Ltd And Ors
…
Mr. Pramod Mayure C, Advocate for Applicant
Mr. S. R. Bodade, Advocate for Respondents.
…..

CORAM : S. G. CHAPALGAONKAR, J.
Dated : 14th FEBRUARY, 2025

PER COURT :-

1. Heard, learned Advocates appearing for respective parties.

2. The applicants are claimants before the Tribunal. They instituted claim seeking compensation towards accidental death of Sachin Rakesh Valvi and Deepesh Jayesh Gavit. It is contention of the claimants that while deceased were preceding on motorcycle, insured luxury bus gave dash to

motorcycle. Eventually, both the rider and pillion rider of motorcycle suffered fatal injuries.

3. Respondent/Insurance Company contested the claim on multiple grounds; firstly, it is contended that accident occurred due to fault motorcycle rider. Secondly, bus had no valid fitness and permit at the time of accident. Thirdly, claim is excessive and inorbitant. Tribunal after evaluation of evidence, accepted contention of the claimant that bus driver was sole responsible for accident, hence taking notional income of deceased @ Rs.7200/- per month, passed an award.

4. The appellant/insurer assails both the awards thereby carrying forward defences on the point of quantum, negligence and breach of policy.

5. Mr. Bodade, learned Advocate appearing for appellant/insurance company points out that although, both victims were bachelor, tribunal considered 2/3 dependency of claimants, which is inconsistent to verdict in case of ***Sarla Verma and Ors. Vs. Delhi Transport Corporation***[1] as well as ***National Insurance Company Ltd. Vs. Pranay Sethi*** [2].

1 (2009) 6 SCC 121
2 (2017) 16 SCC 680

6. Considering submissions, apparently, there is no dispute as to the accidental death of deceased involving insured vehicle. It is also not disputed that claimants were dependents on the income of the deceased. So far as, breach of policy condition, it would be matter between insurer and owner of vehicle.

7. Entitlement of the claimants to receive compensation cannot be objected for that reason. The assessment of compensation is also based on notional income. At the most, in case of rider of the motorcycle, defence of contributory negligence may be relevant. However, Tribunal based on police papers, recorded finding in favour of claimants on that issue.

8. In that view of the matter, the following order is passed:

ORDER

a. Claimants are permitted to withdraw 60% compensation amount as deposited by the Insurance Company on furnishing usual undertaking to learned Registrar(Judicial) of this Court that they shall re-deposit the amount, in case adverse order is passed at the time of final disposal of appeal.

b. Balance of amount be invested in fixed deposit in any nationalized bank till disposal of Appeal.

c. Application stands **disposed** in aforesaid terms.

(S. G. CHAPALGAONKAR, J.)

Rushikesh/2025