IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1859 OF 2002

National Insurance Co. Ltd.
Through its Regional Office No.1
J. Tata Road, Bombay – 400020 … Appellant

Versus

1 Ganpat Appa Sutar
Age 45 yrs., residing at Post Medha, Taluka – Jawli,
District Satara

2 Kantabai Ganpat Surar
Aged 40 years, residing at Post Medha,
Taluka Jawli, District : Satara

3 Abhay Shrirang Dhanwade
Residing at Post Medha, Taluka Jawli,
District Satara

4 Santosh Shrirang Dhanwade
Residing at Post Medha, Taluka Jawli,
District Satara … Respondents

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Ms. D. Shalini Shankar, Advocate for the Appellant.
Mr. Shailesh Chavan i/b. Mr. Milind Deshmukh, Advocate for Respondent Nos. 3 and 4.

CORAM : SHIVKUMAR DIGE, J.
DATED : 28th JANUARY, 2025.

ORAL JUDGMENT:

1. The issues involved in this appeal are, at the time of accident driver of offending vehicle was not holding effective and valid driving licence and rate of interest is awarded on higher side.

2. It is contention of learned counsel for the appellant that at the time of accident driver of offending vehicle was not holding effective and valid driving licence but this fact is not considered by the Tribunal. Learned counsel further submitted that the Tribunal has awarded @9% interest on the compensation amount it is on higher side, hence requested to reduce the interest on compensation amount.

3. It is contention of learned counsel for respondent Nos. 3 and 4 that at the time of accident driver of offending vehicle was holding effective and valid driving licence. The Tribunal has considered all the aspects and on that basis well reasoned order is passed, hence requested to dismiss the appeal.

4. Though respondent Nos. 1 and 2 claimants served, none present for respondent Nos. 1 and 2. As appeal is of year 2002 I am deciding it on merit.

5. I have heard both the learned counsel. Perused Judgment and Order passed by Motor Accident Claims Tribunal, Satara (for short "the Tribunal"). It is contention of learned counsel for the appellant that at the time of accident driver of offending vehicle was not holding effective and valid driving licence. While dealing with this issue, the Tribunal has observed that register maintained by transpot authority produced by the appellant/Insurance Company regarding the issue of licence indicates that at the relevant time opponent No.2 was holding licence for driving LMV vehicle not only that concerned employee of RTO had admitted in the evidence that the person who is holding the licence for driving LMV vehicle can drive the jeep also. Merely because he was not holding batch for driving taxi that does not mean that driver does not holding licence for driving the vehicle on that ground the Tribunal has fixed the liability on the appellant/ Insurance Company as offending vehicle was insured with the appellant/Insurance company. I do not find infirmity in it. In my view, admittedly, at the time of accident driver of offending vehicle was holding licence of LMV vehicle. The Hon'ble Apex Court in the case of ***Mukund Dewangan V/s. Oriental Insurance Company Limited, (2017) 14 SCC 663*** has held that licence to drive a light motor vehicle need not have an endorsement to drive transport vehicle. Hence, I do not see merit in the contention that at the time of accident driver of offending vehicle was not holding effective and valid driving licence. It appears from the record that at the time of accident deceased was 13 years old but the Tribunal has awarded compensation amount of Rs.1,54,500/-.

As per view of ***Meena Devi V/s. Nanu Chand Mahto @ Nemchand Mahto and Ors.*** arising out of Special Leave Petition (Civil) No.5345 of 2019, the claimants are entitled for Rs.5,00,000/- compensation. The Tribunal has awarded interest @9% p.a. it is on higher side, I am considering it Rs.@7.5% p.a.

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

ORDER

(i) The appeal is partly allowed.

(ii) The respondent Nos. 3 and 4 i.e. claimants are entitled for compensation of Rs.5,00,000/-with @7.5% p.a. from the date of filing claim petition till realisation of the amount including compensation amount awarded by the Tribunal.

(iii) The appellant/Insurance Company shall deposit the compensation amount along with accrued interest thereon within six weeks after receipt of this order.

(iv) The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

(v) The claimants shall pay deficit court fees on enhanced amount as per rule.

(vi) R & P be sent back to the Tribunal.

(vi) The statutory amount along with accrued interest be transferred to the Tribunal. Parties are at liberty to withdraw it as per rule.

(vii) All pending applications, if any also disposed of.

(SHIVKUMAR DIGE, J.)