2025:BHC-NAG:4064

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
: NAGPUR BENCH : NAGPUR.

FIRST APPEAL NO. 1111 OF 2024

APPELLANT : The New India Assurance Co. Ltd.
Through its Branch Manager, Gondia,
through its Regional Manager,
Regional Office Dr. Ambedkar Bhavan,
M.E.C.L. Premises, 4th Floor,
High Land Drive, Seminary Hills, Nagpur.

VERSUS

RESPONDENTS : 1]Smt. Laxmi Wd/O Suresh Ambedare,
Aged about 55 years, Occu. Household,
R/o Ganesh Nagar, Gondia,
Dist. Gondia.

2] Ramesh S/o Domesh Brahmankar,
Aged about 48 years, Occu. Ownwer of Auto
R/o Gudma, Post Daqttora, Dist. Gondia

3] ~~Ramesh S/o Ramdas Aagde,~~
~~A/a 28 years, Occu. Driver, R/o Ward No.2,~~
~~Goregaon, Tah. Goregaon, Dist. Gondia~~
(Deleted as per Court's order dtd. 24.10.2024)

Mr. M. B. Joshi, Advocate for the appellant.
Mr. Kabir Jhamle with Mr. Aniruddha Suneri, Advocates for respondents

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CORAM : M. W. CHANDWANI, J.
DATED : APRIL 04, 2025

ORAL JUDGMENT

1. Heard. **ADMIT.** Taken up for final disposal forthwith by consent of the learned counsel for the parties.

2. A limited challenge is made to the award dated 01.03.2019, passed by the Chairman, Motor Accident Claims Tribunal, Gondia in M.A.C.P. No. 128/2016.

3. Deceased Suresh Mahadeorao Ambedare died in a vehicular accident on 14.08.2015. The offending vehicle i.e. auto rikshaw bearing registration No. MH-35/K-1544, which was involved in the accident was insured with the appellant-Insurance Company. The Tribunal held the driver of the auto rikshaw responsible for negligence and granted compensation to the claimant/dependent i.e. wife of deceased Suresh Ambedare to the tune of Rs.57,81,472/- along with interest @ 7% per annum from the date of the petition.

4. The ground raised in the appeal is that, in spite of producing the salary certificate of the deceased (Exh.34) on record showing his gross monthly income as Rs.69,139/-, the Tribunal wrongly assessed his monthly income as Rs.79,326/- and accordingly, assessed loss of dependency of respondent no.1 which resulted in an erroneous calculation. Hence, the appeal.

5. Learned counsel for the respondents initially resisted the submission but ultimately conceded that the gross monthly income of the deceased according to the salary certificate is Rs.69,139/-, which is the

amount that has to be taken while assessing loss of dependency of the claimant/respondent no.1.

6. Perusal of the salary certificate (Exh.34) of the deceased shows that the gross salary of deceased Suresh was Rs.69,139/-. It further shows statutory deduction of Rs.7,619/- towards Income Tax and Rs.300/- towards Professional Tax which makes a total of Rs.7,919/-. Needless to mention, while assessing the income, statutory liability i.e. income tax and professional tax is to be deducted. Thus, the amount of gross monthly income of the deceased is to be reduced by Rs.7,919/-. The figure of gross monthly income (Rs.69,139/- (-) Rs.7,919/-) comes to Rs.61,220/-. It appears that future prospects, as held in ***National Insurance Co. Ltd. .VS. Pranay Sethi,*** reported in ***2017 (16) SCC 680***, was not granted by the Tribunal. Considering the age of the deceased, 15% towards future prospects are required to be added. Therefore, the impugned award is required to be corrected to that extent.

7. In view of the above, respondent no.1 is entitled to the following compensation towards loss of dependency and other benefits :-

S. No.	Particulars	Amount
1.	Gross monthly income	Rs. 61,220/-
2.	Gross annual income (Rs.61,220/- x 12)	Rs. 7,34,640/-
3.	**Add** - 15% future prospects	Rs. 1,10,196/-
	Total (2 +3) :-	**Rs. 8,44,836/-**

4.	**Less** – 1/3rd towards personal expenses	Rs. 2,81,612/-
5.	Total annual dependency	Rs. 5,63,224/-
6.	Multiplier of “9” (applied by the Tribunal)	
7.	Thus, total compensation under the head of loss of dependency comes to - (Rs.5,63,224/- x 9)	**Rs. 50,69,016/-**
8.	**Add –** Under Conventional Head towards loss of consortium - Rs. 40000/- loss of estate - Rs. 15000/- future prospect - Rs. 15000/- (granted by the Tribunal vide impugned award)	**Rs. 70,000/-**
9.	Total amount of compensation (including NFL)	**Rs.51,39,016/-**

8. Accordingly, the First Appeal is partly allowed.

9. Respondent no.1/claimant is entitled to the compensation amounting to **Rs. 51,39,016/- (Rupees Fifty one lakhs Thirty Nine thousand and Sixteen only).** Rest of the award shall remain intact.

10. The excess amount, if any, deposited shall be refunded to the appellant-Insurance Company.

11. The First Appeal stands disposed in the above terms. No order as to costs.

(M.W.Chandwani, J.)

Diwale

Signed by: DIWALE
Designation: PS To Honourable Judge
Date: 21/04/2025 19:43:57