

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.299 OF 2000

1 Chandrama s/o. Bisun Ram, age
47 years, occ. Service

Sau. Kuntidevi w/o. Chandrama
2 Ram, age 46 years, occ.
Household

3 Sudhirkumar s/o. Chandrama Ram,
age 26 years, occ. Unemployed

4 Sanjaykumar s/o. Chandrama Ram,
age 10 years, occ. Student,

Sadanandkumar s/o. Chandrama
Ram, age 10 years. Occ. Student
5 (minor through his guardian and
father – appellant no.1 –
Chandrama Ram

All residing of Jabra, Post, : ..Appellants
Dist.HAjaribag (Bihar)

V E R S U S

Late Shivshankar Thakur, r/o.
1 Jabalpur (legal heirs not
known)

2 Shri. Kudratsingh Jaggis s/o.
Shri G.D. Jaggi, age Major,
occ. Truck Owner, r/o. 753,
Hathtal Colony, Jabalpur (M.P.)

3 The Oriental Insurance Co.
Ltd., having registered office
at Oriental House, A-25/27,
Asafali Road, New Delhi

4 Raju Gorelal Dube, age 22
years, occ. Driver, c/o.
Chamkaursingh Kartarsingh
Sandhu, Bombay Patna Roadways,
Room No.17, Gurunanak Nanak,
L.B.S. Marg, Ghatkopar, Bombay
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5 Chamkaursingh s/o. Kartarsingh
Sandhu, Age Major, Occu Truck
Owner, Room No.17, Gurunanak
Nanak, L.B.S. Marg, Ghatkopar,
Bombay 86

6 The New India Assurance Co.
Ltd., 17, Ramji Kamal Marg,
(Nicol Road), Ballard Estate, ..Respondents
Bombay 400 038

Mr.R.B.Dhaware, advocate i/b. Mr.U.S.Malte,
advocate for appellants

Mr.A.S.Deshpande, advocate for respondent no.6

Mr.S.G.Chapalgaonkar, advocate for respondent
no.6

CORAM : M.T. JOSHI, J.
DATE : FEBRUARY 11, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by grant of lesser compensation by learned Member, Motor Accident Claims Tribunal, Jalgaon, in a proceeding under Section 166 of the Motor Vehicles Act, present appellants – claimants are before this Court.

3] The necessary and relevant facts on record would show that the deceased was an unmarried 22 years old young man. The case of present appellants was that the deceased was working as a Cleaner over the truck, which was involved in the accident. He was drawing salary of Rs.800/- per month and additionally, he used to get some amount

towards allowances etc. Appellant no.1 – Chandrama and appellant no.2 – Sau. Kuntidevi are the parents of the deceased while, rest of the appellants are his siblings.

4] Considering the rival pleadings on record, learned Member of the Motor Accident Claims Tribunal came to the conclusion that the deceased was earning Rs.800/- per month. Thus, his yearly income would come to Rs.9,600/-. However, the learned Member has computed the loss of dependency at Rs.3,000/- per annum and multiplicand of 12 was applied taking into consideration the age of the parents of the deceased. By addition of Rs.12,000/- towards loss of consortium (support), estate and funeral expenses, Rs.48,000/- were awarded.

5] Upon hearing both sides, following point arises for my determination :-

Whether the compensation amount arrived at by learned Member is just and proper ?

. My finding to the above point is in negative and the appeal is, therefore, partly allowed for the reasons to follow.

6] It should be noted that learned Member has accepted that the deceased was earning Rs.800/- per month. Considering the fact that the deceased was a bachelor, the loss of dependency ought to have been calculated at 50% of his income, which would come to Rs.4,800/-. Further, as the deceased was proved to be 22 years old at the time of the accident and his parents were in the age group of 46 to 47 years, the multiplier of 12 applied by the learned Member, in my view, would be proper. Thus, the loss of dependency would

come to Rs.57,600/-. Further, learned Member has rightly awarded Rs.10,000/- for loss of support and estate and Rs.2,000/- towards funeral expenses. Thus, the total compensation would be Rs.69,600/- (Rs.57,600/- + Rs.10,000/- + Rs.2,000/-). Further, in my view, considering the rate of economy, the interest at the rate of 6% per annum, from the date of filing of the present appeal needs to be granted.

7] In the circumstances, the following order is passed :-

a] The appeal is partly allowed with proportionate costs.

b] Respondent nos.2 to 6 are directed, jointly and severally, to pay the additional compensation amount of Rs.27,600/- to the appellants, along with the interest at the rate of 6% per annum from

the date of filing of the appeal till realisation of the amount, within a period of three months from the date of this judgment.

c] In case, the additional compensation amount, as directed above, is not deposited/paid to the appellants within three months from the date of this judgment, the said amount shall carry interest at the rate of 9% per annum.

d] Decree be drawn accordingly.

[M.T. JOSHI, J.]

kbp