

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 708 OF 1996

Nilesh S/o Ashok Jaju and others .. Appellants

Versus

Mohammad Bashir Umarbhai
Chauhan and others .. Respondents

Shri G. V. Wani, Advocate h/f Shri N. J. Pahune Patil, Advocate
for Appellants.

Shri A. B. Gatne, Advocate for the Respondent No. 3.

The Respondent Nos. 1 and 2 served.

CORAM : S. V. GANGAPURWALA, J.

DATE : 25TH AUGUST, 2015.

PER COURT :

. The appellants are the original claimants, who had filed petition U/Sec. 166 of the Motor Vehicles Act seeking compensation on account of the death of their mother. The learned counsel submits that, the income has not been properly considered. The father of the claimants was a partner in the firm having 40% shares. The learned counsel further submits that, multiplier of 12 is applied, whereas multiplier of 14 ought to have been applied. According to the learned counsel meager amount is awarded towards loss of consortium. The learned counsel submits that, Rs. 1,00,000/- each ought to have been

awarded towards loss of love and affection and towards loss of estate Rs. 1,00,000/- should have been awarded.

2. Mr. Gatne, the learned counsel for the respondent No. 3 submits that, the Tribunal has rightly considered the multiplier, so also income which is based on the assessment and balance sheet of the firm. The compensation amount has been rightly awarded for the accident of the year 1990.

3. I have considered the submissions. As far income is concerned, the Tribunal has rightly considered income considering accounts of the partners, where the deceased father of the claimant was partner. He had 40% share. Considering the same there is no error on the part of the Tribunal in considering income of the deceased. However, the multiplier applied is 12. The age of the deceased was 40 years. In such a case multiplier of 14 ought to have been applied. In such a case loss of dependency would come to Rs. 2,24,000/-.

4. It does not appear any amount is awarded towards loss of love and affection. Only Rs. 10,000/- are awarded towards loss of consortium. Considering the fact that only amount of Rs. 10,000/- is awarded on account of loss consortium, which is on lower side and considering the judgment of the Apex Court in a case of **Asha Verman and others Vs. Maharaj Singh and others** reported in **2015 All SLR 1476** wherein the Apex

Court has awarded amount of compensation towards different heads and to the widow and the children an amount of Rs. 1,00,000/- was awarded each. However, considering the fact that, accident has taken place long back, I am inclined to award the said amount under other heads of non pecuniary damages. I would award Rs. 50,000/- to each claimant on account of loss of love and affection and consortium.

5. As such, the claimants would be entitled for compensation of Rs. 3,74,000/- along with interest at the rate of 9% per annum on the enhanced amount of compensation from the date of petition till its realization. The amount already paid is required to be adjusted as on the date said amount is paid.

6. In the result I pass following order.

7. The respondents/original opponent Nos. 1 to 3 are jointly and severally liable to pay an amount of Rs. 3,74,000/- as compensation along with interest at the rate of 9% per annum on the enhanced compensation amount from the date of petition till its realization as on the date said amount is paid. The amount already paid shall be adjusted. The first appeal accordingly is disposed of. No costs.

[S. V. GANGAPURWALA, J.]