

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

FIRST APPEAL NO. 514 OF 2015

SHABANA MANJUR SHAIKH AND OTHERS
VERSUS
GAUTAM KADUBA LPATTEKAR AND ANOTHER

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Advocate for Appellants : Gore Ravindra Vitthal
Advocate for Respondents : Mr.Chapalgaonkar S.G. Adv For Resp 2

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CORAM : S.V.GANGAPURWALA,J.

DATED : 12TH OCTOBER, 2015

ORDER :-

1. The present appellants had filed application for compensation under Section 166 of the Motor Vehicles Act. The same is partly allowed. The present appeal is filed for further enhancement.

2. Mr. Gore, the learned counsel submits that, the Court while granting the compensation amount has deducted 1/3rd towards personal expenses. There are 5 claimants as such deductions towards personal expenses should have been only 1/4th. The learned counsel submits that, the future prospectus had not been considered. The age of the deceased was 35 years as such the loss of future prospects is also required to be considered. The learned counsel submits that, the Court has awarded very less amount towards loss of consortium and no amount is awarded toward loss

of love and affection.

3. Mr. Chapalgaonkar, the learned counsel submits that, proper compensation has been awarded. The deceased was an agriculturist as such Court considered the loss of dependency liberally.

4. I have considered the submissions so also I have gone through the judgment and record and proceeding.

5. The Court had considered the age of the deceased as 35 years and has applied multiplier of 16. The deceased was an agriculturist. The notional income of Rs. 3,000/- p.m. has been considered. Deductions towards the personal expenses has been made 1/3rd. Considering the number of claimants the deductions towards the personal expenses ought to be 1/4th i.e. it should be Rs.2250. Considering the notional income as Rs. 3,000/- per month and deducting 1/4 towards the personal expenses applying the multiplier of 16 the amount towards the loss of dependency would come to Rs. 4,32,000/- instead of Rs. 3,84,000/- awarded by the Court. The Apex Court in a case of **Asha Verman and others Versus Maharaj Singh and others reported in 2015 A. I. R. SCW 3577** has laid down the amounts that can be awarded under the non pecuniary heads. The claimant No. 1 is the widow and claimant Nos. 2 to 5 are the minor children of the deceased. The accident is of the year, 2012. I would award Rs. 50,000/- towards the loss of consortium and an amount of Rs.

50,000/- each towards loss of love and affection so also Rs. 1,00,000/- towards loss of estate and Rs. 25,000/- towards funeral expenses, medical expenses of Rs. 1,89,320, total Rs. 10,96,320/-.

6. In the result I pass the following order.

The award passed by the Tribunal is modified. The claimants are entitled to Rs. 10,96,320. The respondents are jointly and severally liable to pay compensation amount of Rs.10,96,320/- to the claimants with interest at the rate of Rs. 7.5% per annum from the date of petition till realization. The amount already paid shall be adjusted as on the date the same is paid. The appellant shall pay Court fees on the additional amount of compensation awarded. First Appeal is accordingly allowed. No costs.

[S.V.GANGAPURWALA,J.]

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