

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.174 OF 2000

- 1] Bhimrao s/o. Dhudku Nikam
age 45 years, occ. Service,
- 2] Vishal s/o. Bhimrao Nikam,
age 22 years,
- 3] Kum. Savita Bhimrao Nikam,
age 19 years, occ. Household,
and Education,
- 4] Kum.Sumegh Bhimrao Nikam,
Age 16 years, occ.Education,

Appellants 2 to 4 under
guardianship of Bhimrao
Nikam i.e. appellant no.1

All r/o.Fekri, Tq.Bhusawal,
Dist.Jalgaon ..Appellants

Versus

- 1] Kailas Jagannath Taide,
age : Major, occ. Tractor Driver,
r/o.Chinchol, Tq.Edlabad,
Dist.Jalgaon
- 2] Bhagwat s/o. Onkar Choudhari,
age 53 years,occ. Tractor,
Trolly owner, r/o. Chinchol,
Tq.Edlabad, Dist.Jalgaon
- 3] The United India Insurance Co.
Ltd., Mansing Market, Station
Road, Jalgaon ..Respondents

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Mr. Vijay Patil, advocate for appellants

Mr.V.N.Upadhye, advocate for respondent no.3

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 14, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by grant of lesser compensation by learned Member of Motor Accident Claims Tribunal, present appeal is preferred by the original claimants.

3] Deceased – Indubai has died in a motor vehicle accident on 6th February, 1996. Her husband, one major son and two minor daughters have claimed compensation of Rs.1,20,000/-. Learned Member held that the deceased was earning Rs.600/- per month as an agricultural labour. The deceased was 40 years old. As the appellants claimed loss of dependency, multiplier of 15 was applied to the

income of the deceased and an amount of Rs.1,08,000/- was arrived at. Towards personal expenses of the deceased, one third amount i.e. Rs.36,000/- was deducted and the amount was arrived at Rs.62,000/-. An amount of Rs.2,000/- for funeral expenses; Rs.2,500/- towards loss of estate as well as mental shock and loss of love and affection etc. was deducted and thus, the total compensation arrived at was Rs.76,500/- with interest at the rate of 12% per annum.

4] Mr.Patil, learned counsel for the appellants, submits that though evidence was led before learned Member that the deceased was earning Rs.40/- to Rs.50/- per day, learned Member wrongly disbelieved the same. He, therefore, submits that necessary enhancement may be granted.

5] On the other hand, Mr.Upadhye, learned counsel for respondent no.3, submits that in the claim

petition, the appellants claimed that the monthly income of the deceased was Rs.900/- per month; as against this, learned Member arrived at a figure of Rs.600/- per month as her income. He submits that as per the statement of a witness, the deceased was serving at some place and there was no document to show that she owned any land.

6] Upon hearing both sides and considering the fact that grant of compensation is a guess work and finding that the deceased was an agricultural labour carrying agricultural work at the time of her death in 1996, in my view, the estimate arrived at by learned Member of Motor Accident Claims Tribunal cannot be called as shockingly disproportionate to the material on record. In that view of the matter, no interference is warranted in the said conclusion.

7] The appeal is therefore, dismissed without any order as to costs.

[M.T. JOSHI, J.]

kbp