

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

FIRST APPEAL NO. 815 OF 2014

Omprakash Sadashiv Koli (Sonawane)	
and another	.. Appellants
Versus	
Damjibhai Jivarambhai Mange	
and another	.. Respondents

Ms. Sabahat T. Kazi, Advocate for Appellants.

The Respondent No. 1 is served.

Shri S. G. Chapalgaonkar, Advocate for the Respondent No. 2.

CORAM : S. V. GANGAPURWALA, J.

DATE : 25TH AUGUST, 2015.

PER COURT :

1. Ms. Kazi, the learned counsel for appellants submits that, the Tribunal while awarding the compensation on account of death of 16 years old son of the present appellants has deducted 20% of the amount on the ground that the driver of the car in which the boy was traveling was negligent to the extent of 20%. The learned counsel submits that, it is a case of composite negligence and not of contributory negligence, as such no deductions could have been made. The learned counsel submits that, on account of loss of estate also very meager sum of Rs. 20,000/- is awarded. So also funeral expenses at least Rs. 25,000/- could have been awarded.

2. Mr. Chapalgaonkar, the learned counsel for the respondent No. 2/Insurance Company submits that, it has not come on record

as to who was the owner of the car. The same would also be relevant and material. The learned counsel further submits that, the Tribunal has rightly applied the principles and awarded the compensation. The 20% deduction has been rightly made.

3. I have considered the submissions. It would be a case of composite negligence, even if it is assumed that the driver of the car was negligent. The Tribunal has arrived at Rs. 19,500/- as loss of dependency. The same appears to be reasonable and proper.

4. The amount awarded on account of love and affection is Rs. 30,000/- per head. Actually it ought to be Rs. 50,000/- per head and the funeral charges ought to be Rs. 25,000/-.

5. In the result I pass the following order.

6. The appellants are entitled for compensation of Rs. 3,20,500/-. The respondent Nos. 1 and 2 are jointly and severally liable to pay Rs. 3,20,500/- to the appellants inclusive of no fault liability amount with interest at the rate of 8% per annum from the date of petition till its realization. The amount shall be paid proportionately to the appellants. The amount already paid shall be adjusted. The first appeal as such is disposed of. No costs.

[S. V. GANGAPURWALA, J.]