

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 18 OF 2000

WITH

CIVIL APPLICATION NO. 3157 OF 2009

IN

FIRST APPEAL NO. 18 OF 2000

- 1) Shantabai w/o Vasantryao Shedute
Age : 47 years, Occu.: Household,
- 2) Mangesh s/o Vasant Shedute
Age : 15 years, Minor
- 3) Kum. Seema d/o Vasant Shedute
Age : 12 years, Minor
- 4) Asha d/o Vasant Shedute,
Age : 11 years, Minor

The appellant nos. 2 to 4
are under guardianship of
their father - Respondent No. 7
Vasant S/o Ratan Shedute

All r/o : Badnapur,
Tal. Badnapur, Dist. Jalna

APPELLANTS/
APPLICANTS

VERSUS

- 1) Ramesh s/o NamdeoraoKharbalkar
Age : 30 years, Occu.: Driver,
R/o.: Gopalnagar, Amravati,
Dist. Amravati
- 2) Sanjay s/o Trimbak Unge,
Age : 22 years, Occu.: Driver,
R/o.: Badnapur, Dist. Jalna

- 3) Rajkumar L. Khatri,
Age : Major, Occu.: Business,
R/o.: Dasturnagar, Amravati
- 4) Radheshyam s/o Gopikishan Mantri
Age : Major, Occu.: Business,
R/o.: Badnapur, Dist. Jalna
- 5) United India Insurance
Company, Divisional Office
At Amravati, Branch at Jalna
- 6) Oriental Insurance Company
Branch at Jalna
- 7) Vasantao s/o Ratan Shedute,
Age : 50 years, Occu.: Labourer,
R/o.: Badnapur, Dist. Jalna

RESPONDENTS

Appeal is dismissed as against the
respondent nos. 1 and 7 vide
Registrar's order dated 17.02.2004.

Mr. R.D. Sanap, Advocate holding for and with
Mr. M.K. Deshpande, Advocate for the appellants
Mr. S.G. Chapalgaonkar, Advocate for respondent No.5
Mr. A.A. Joshi, Advocate for respondent No.6.
None for respondent No. 2 to 4, though served.
The appeal is dismissed as against respondents
No. 1 and 7 vide Registrar's order dt. 17.02.2004

CORAM : M.T. JOSHI, J.
DATE : 22/01/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. Aggrieved by the lesser compensation directed

to be paid in an award passed by the learned Member of the Motor Accident claims Tribunal, the present appeal is preferred by the original petitioners.

3. The present appellant No. 1 and respondent No. 7 are the parents, the appellant No. 2 is brother while the appellants No. 3 and 4 are the sisters of deceased Sanjay who died in a motor vehicular accident involving a truck bearing registration No. MH-21/5329 on which the deceased was working as cleaner. At the relevant time, the luxury bus bearing registration No. MH-27/A-9061 came from the opposite side. It gave dash to the truck. In the circumstances, the appellants/original claimants claimed compensation from the respective drivers, the owners and the insurers of the respective vehicles who are the respondents before this Court.

4. In view of the fact that the finding of the learned Member of the Motor Accident Claims Tribunal that the accident has occurred due to rash and negligent driving of both the vehicles, is not challenged in the present appeal, we are not required to go into those details.

5. It was proved before the learned Member of the Tribunal that the deceased was 25 years old. He was bachelor. He was serving as cleaner in the truck involved in the accident. The learned Member believed the oral testimony of claimant No.1 i.e. the father of the deceased that the deceased used to earn Rs. 1000/- per month as a cleaner. In the circumstances, as the deceased was bachelor, the learned Member assumed loss of dependency to the tune of Rs. 500/- to Rs. 600/- per month to the present appellants and respondent No. 7. The learned Member thereafter took into consideration the age of the original claimants No. 1 and 2 i.e. the parents of the deceased as 50 years and 45 years, respectively. The multiplier of 18 was therefore applied. In the circumstances, the compensation of Rs. 1,20,000/- with interest at the rate of 12% per annum, was granted.

6. The learned counsel for the appellants submits that the deceased was only 25 years old. In that view of the matter, the learned Member has granted a meager amount of Rs. 1,20,000/- as compensation to the

appellants. He further submitted that no compensation on non-pecuniary heads is granted.

7. On the other hand, Mr. S.G. Chapalgaonkar, learned counsel for respondent No. 5, submits that though no compensation on the non-pecuniary heads is granted, the multiplier of 18 has been applied by the learned Member in this case, which is very high. Even if one takes into consideration the age of the mother of the deceased i.e. 45 years, the multiplier that would be applicable would be only 12. In the circumstances, he submitted that as the learned Member has granted more than reasonable compensation on the pecuniary head, there is no need to grant the compensation on non-pecuniary heads.

8. On the basis of above material on record, the following point arises for my determination:-

“Whether the compensation awarded by the learned Member of the Motor Accident Claims Tribunal is just compensation ?

My finding to the above point is in the affirmative. Hence, the appeal is dismissed without any order as to costs, for the reasons to follow:-

R E A S O N S

9. It is to be noted that the learned Member of the Tribunal has agreed with the oral evidence led by the original claimants/present appellants. Whatever the original claimant No.1 – Vasant i.e. the father of the deceased has deposed, has been taken into consideration. The earning of the deceased at Rs. 1000/- per month and his age as 25 years old at the relevant time was accepted and even the age of the parents of the deceased as 50 years and 45 years, respectively was also accepted by the learned Member. The multiplier of 18 applied was, however, an unreasonable multiplier. For a dependent, who is of 45 years old, the multiplier of 12 should have been applied. In the circumstances, when the multiplier of 18 is applied and the compensation on pecuniary head is granted, it would take care of the compensation to be granted on non-pecuniary heads. In

the circumstances, I do not think that the compensation awarded by the learned Member is unjust. Hence, the appeal fails.

10. In the result, the appeal is dismissed without any order as to costs.

11. In view of dismissal of the first appeal, civil application No. 3157/2009 does not survive and hence, stands disposed of accordingly.

[M.T. JOSHI]
JUDGE

npj/fa18-2000