

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1501 OF 2010

1. Smt. Surekha w/o Rameshwar
 @ Rambhau Gadekar,
 Age : 26 years, Occu. Household,
 R/o Bhendala, Tq. Gangapur,
 District Aurangabad
2. Ku. Amruta d/o Rameshwar
 @ Rambhau Gadekar,
 Age : 02 years, Occu. Nil,
 u/g of her mother claimant No.1
 Surekha Rameshwar Gadekar,
 R/o as above
3. Smt. Radhabai w/o Chandrakant
 Gadekar, Age : 50 years,
 Occu. Household, R/o as above

APPELLANTS

VERSUS

1. Sk. Sharif Sk. Aziz,
 Mahesh Sureshchandra Vakil,
 Age : Major, Occu. Owner of
 Truck No. MWP-1307,
 R/o Khokadpura, Dist. Aurangabad
2. Shakil Ahmed Khan Abdula Khan,
 Age : Major, Occu. Driver,
 R/o House No. 1-20-2, Juna Bazar,
 Aurangabad
3. The Divisional Manager,
 The New India Insurance Co. Ltd.,
 Adalat Road, Aurangabad

RESPONDENTS

Mr. P.C. Mayure, Advocate for the appellants
 Mr. Z.Z. Kadri, Advocate for respondents No.1 & 2
 Mr. A.B. Kadethankar, Advocate for respondent No. 3

CORAM : M.T. JOSHI, J.

DATE : 02/02/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. **Admit.** Learned counsel appearing for the respondents waive service of notice for the respective respondents, on admission of the appeal.
3. By consent of learned counsel for both sides, heard finally.
4. The only issue that has arisen in this appeal is regarding the grant of just compensation to the present appellants/original claimants in a petition under section 166 of the Motor Vehicles Act filed before the learned Member, Motor Accident Claims Tribunal, Aurangabad.
5. Deceased Rameshwar died in the motor vehicular accident on 22.12.2007. The present respondent No. 1 is the owner, respondent No. 2 is the driver while respondent No. 3 is the insurer of the truck which was involved in the accident with the motorcycle of the deceased.

6. Mr. P.C. Mayure, learned counsel for the appellants, submits that the multiplicand of Rs. 2000/- per month arrived at by the learned Member is a correct multiplicand. However, when it is proved that the deceased was 28 years old at the time of accident, which has been accepted by the learned Member, the multiplier of 17 should have been applied. The learned Member, however, has applied the multiplier of 14. Learned counsel further submitted that no compensation on non-pecuniary head is granted.

7. Mr. A.B. Kadethankar, learned counsel for respondent No. 3 – insurer opposes the submission.

8. On the basis of above material on record and the submissions advanced on behalf of both sides, the following point arises for my determination :-

“Whether the learned Member of the Motor Accident Claims Tribunal has granted just compensation?”

My finding to the above point is in the negative. The appeal is, therefore, partly allowed with proportionate

cost, for the reasons to follow:-

R E A S O N S

9. The learned Member, on the basis of the post-mortem examination note, has held that the deceased was 28 years old. This finding is not challenged by anybody. The learned Member has, however, applied the multiplier of 14. In the case of "**Sarla Verma and others Vs. Delhi Transport Corporation and another**", reported in **2009 AIR (SC) 3104**, it is held that the multiplier in such cases should be 17. In the circumstances, enhancement under the head of loss of dependency would come to Rs. 24,000 x 3 = Rs. 72,000/-.

10. Towards the funeral expenditure, considering the period of accident, an amount of Rs. 5000/- would be just and sufficient, towards the loss of love and affection and loss of consortium, an amount of Rs. 25,000/- would be just and sufficient. The total additional compensation thus comes to Rs. 1,02,000/- (Rs. 72,000/- plus Rs. 5000/- plus Rs. 25,000/-).

. Considering the present trend of economy, the

interest at the rate of 6% per annum on the enhanced compensation would be just and sufficient. In the result, the following order:-

11. The appeal is partly allowed with proportionate costs. The respondents No. 1 to 3 are directed to jointly and severally pay to the present appellants additional compensation of Rs. 1,02,000/- together with interest thereon at the rate of 6% per annum from the date of filing of the appeal till the realization of the amount.

. The respondents are directed to pay the amount of additional compensation, granted as above, to the present appellants within a period of two months from the date of this order.

. Upon failure, the additional amount of compensation shall carry interest at the rate of 9% per annum.

Sd/-
[M.T. JOSHI]
JUDGE

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