

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

First Appeal No. 1894 of 2015

1. Subhabai Bhagwan Mundhe (Beldar),
Age : 38 years,
Occupation : Household.
2. Dnyaneshwar Bhagwan Mundhe (Beldar),
Age : 24 years,
Occupation : Education.
3. Sopan Bhagwan Mundhe (Beldar),
Age : 22 years,
Occupation : Education.
4. Govinda Bhagwan Mundhe (Beldar),
Age : 21 years,
Occupation : Education.

All r/o. Khamkheda,
Taluka : Muktainagar,
District : Jalgaon.

.. Appellants.

versus

The Divisional Controller,
Maharashtra State Regional Transport
Corporation, Jalgaon,
District : Jalgaon.

.. Respondent.

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Mr. Vinod P. Patil, Advocate, for appellants.

Mr. M.K. Goyanka, Advocate, for the respondent.

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CORAM : A.M. BADAR, J.

DATE : 18TH DECEMBER 2015

ORAL JUDGMENT :

1. By this appeal, injured claimant is challenging the judgment and award dated 27-3-2015, passed by the learned Member of the Motor Accident Claims Tribunal, Jalgaon, in M.A.C.P. No. 67/2012 between the parties.
2. Challenge to the impugned judgment and award is only to the extent of award regarding the interest on the amount of compensation.
3. Heard the learned Counsel appearing for appellants as well as the learned Counsel appearing for the respondent. Perused the impugned judgment and award.
4. The learned Counsel appearing for the respondent argued that the entire award is satisfied by depositing the amount of compensation on 19-10-2015 and the same is perfectly legal.
5. Clause 2 of the operative part of the judgment reads thus :-

[2] Opponent do pay applicants under Section 163 of M.V. Act Rs. 4,35,000/- inclusive of no fault liability application amount in equal share, failing to pay the above amount within 2 months, the amount shall carry

interest @ 7.5 % per annum from today till its realization.

6. It is seen that the appellant - claimant had in fact filed petition under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation of Rs. 5,00,000/- on account of death of husband of appellant no.1 - original claimant caused in the vehicular accident wherein ST Bus of respondent - Maharashtra State Road Transport Corporation was involved. After adjudicating the matter on merit, the learned Tribunal awarded compensation of Rs. 4,35,000/- with interest at the rate of 7.5 % from the date of award.

7. It is well settled that the interest can be granted even if the claimant has not pleaded for the same as it is consequential in the eyes of law. Interest is compensation for forbearance or detention of money from the claimant. Interest is awarded to the claimant keeping in mind several factors such as lending rates, statutory provisions, mercantile saga, etc. In the case in hand, award of interest at the rate of 7.5 % that too from the date of judgment cannot be said to be justified. Ultimately the claimant was deprived from his entitlement to compensation by the respondent. Hence claimants need to be awarded interest from the date of petition till realization of the entire amount under the award.

8. Similarly it is seen that the award of interest at the rate of 7.5 % per annum is also inadequate and improper. In the case of ***Amresh Kumari Vs. Niranjana Lal Jagdish PD. Jain & others***, reported in 2015(4) SCC 433 and ***Mohinder Kaur & others Vs. Hira Nand Sindhi (Ghoriwala) &***

another, reported in *2015(4) SCC 434*, the Hon'ble Apex Court has awarded 9 % interest on the compensation assessed to the victims of the vehicular accident. Adopting same analogy, it needs to be held that the claimants are entitled to interest at the rate of 9 % per annum on the amount of compensation. Hence the appeal needs to be allowed.

9. In the result, the Appeal is allowed.

The award dated 27-3-2015 passed by the learned Member of the Motor Accident Claims Tribunal, Jalgaon, in M.A.C.P. No. 67/2012 is modified to the following extent :-

- (a) The respondent is directed to pay interest to appellants - claimants at the rate of 9 % per annum on the awarded amount from the date of petition till realization of the entire amount. Rest of the award stands confirmed.
- (b) Amount of compensation, if any paid to claimants under the award, be adjusted as on the date of payment.
- (c) No order as to costs.

(A.M. BADAR)
JUDGE

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