

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.584 OF 2008

Smt. Sushilabai w/o. Sadashiv
1) Sonawane, age 36 years, occ.
Housewife

Sachin s/o. Sadashiv
2) Sonawane, age 20 years, occ.
Education

3) Sarad s/o. Sadashiv Sonawane,
age 18 yeasers, occ. Education

All r/o. Mandal Tq. Shirpur,
Dist.Dhule ..Appellants

V E R S U S

The Maharashtra State Road
Transport Corporation, ..Respondent
Mumbai, Depot Manager, Dhule

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Mr.M.H.Patil, advocate for appellants

Mr.D.S.Bagul, advocate for respondent - sole

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CORAM : M.T. JOSHI, J.
DATE : MARCH 02, 2015

ORAL JUDGMENT :

Heard both sides.

2] The only point for consideration in the present appeal is, as to whether, the compensation awarded by learned Member of Motor Accident Claims Tribunal in the petition filed by the appellants, was just.

3] Upon hearing both sides, in my view, the compensation awarded by the learned Member was on the lower side and the appeal is, therefore, partly allowed for the reasons to follow.

R E A S O N S

4] Deceased Sadashiv, Headmaster of the Zilla Parishad School, had met with an accident on 14th September, 2004 involving his own motorcycle and State Transport bus bearing registration No.MH-20-

D-5130 on Shirpur to Dhule road. Learned Member came to the conclusion that the accident has occurred solely due to rash and negligent driving of the bus.

5] In the present case, we are required to consider the quantum of the compensation.

6] Exhibit 27 salary certificate placed on record before the learned Member would show that the gross salary of the deceased was Rs.11,613/- during the period of the accident. After making various deductions of Rs.8,560/-, the salary was shown at Rs.3,053/-. However, if only statutory deduction of Rs.200/- towards the profession tax is considered, the income of the deceased, for the purpose of calculating the loss of dependency, would come to Rs.11,413/-. The deceased was proved to be 52 years old at the time of his unfortunate death.

7] In the circumstances, by taking into consideration the revision in the salary, it can very well be concluded that the loss of income would come to Rs.12,000/- per month i.e. Rs.1,44,000/- per annum. As the deceased was 52 years old, in view of the decision in the case of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121**, the proper multiplier would be 11. Thus, the loss of income would come to Rs.15,84,000/-. The deceased has left behind him three dependents i.e. present appellants, therefore, we have to assume that the deceased was expending $1/3^{\text{rd}}$ amount for himself. In the circumstances, upon deduction of $1/3^{\text{rd}}$ amount, the loss of dependency would come to Rs.10,56,000/-. Learned Member, however, though applied multiplier of 11, granted compensation of Rs.2,68,664/- by accepting the multiplicand of carry home salary only.

8] It is now well established that during the period of accident, the amount to be granted for non-pecuniary head was Rs.20,000/-. The total compensation would, therefore, come to Rs.10,76,000/-, including the compensation granted by the learned Member.

9] In the circumstances, the following order :-

a] The First Appeal is partly allowed.

b] The respondents is directed to pay total compensation of Rs.10,76,000/-, including the compensation already granted by the learned Member, with interest at the rate of 7% per annum on the enhanced compensation amount, from the date of filing of the present appeal, till realisation of the amount.

[M.T. JOSHI, J.]

kbp