

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

FIRST APPEAL NO.1554 of 2011

Maharashtra State Road Transport
Corporation, Dhule,
Through its Divisional Controller,
MSRTC, Dhule.

**...APPELLANT
(Orig.Respondent No.2)**

VERSUS

1. Ramjan Gulab Tamboli,
Age 26 years, Occu: Labour Work,
2. Naushadbi Ramjan Tamboli,
Age 30 years, Occu. Household,

Both r/o Indiranagar, Dahiwel,
Tq. Sakri, Dist. Dhule.

(Orig. Petitioners)

3. Shri Yeshwant Hilal More,
Age Adult, Occu: S.T.Driver,
r/o. Nijampur, Tq. Sakri,
District Dhule.

**(Orig.Respondent No.1)
RESPONDENTS**

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Mr. D.S.Bagul, Advocate for the appellant.
Mr. G.R.Syed, Advocate for respondent nos. 1 and
2.
Respondent no.3 served.

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CORAM: P.R.BORA, J.

DATE : April 5th, 2016

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ORAL JUDGMENT :

1. The appellant Corporation has filed the present appeal taking exception to the judgment and award passed by the Member, Motor Accident Claims Tribunal, Dhule, in M.A.C.P. No. 280/2008 on 31st of August, 2010. The aforesaid petition was filed by the present respondents seeking compensation on account of death of their son, namely, Juber, who died in a vehicular accident having involvement of S.T.Bus bearing No. MH-20-D/4064.

2. It was the contention of the respondents before the Tribunal that the deceased Juber was a very bright student and was possessing high prospects. They have, therefore, prayed compensation amounting to Rs.4,00,000/- (Rs. four lacs).

3. The defense of contributory negligence was raised by the appellant before the Tribunal. The learned Tribunal, however, after having assessed the oral and documentary evidence brought before it, allowed the application in part and awarded compensation of Rs.3,75,000/- to the claimants along with interest thereon at the rate of Rs.7.5 per cent per annum from the date of filing of the petition till its realization inclusive

of the amount on account of no fault liability. Against the judgment and award so passed, the appellant Corporation has filed the present appeal.

4. Shri Bagul, learned Counsel appearing for appellant Corporation submitted that the learned Tribunal has erred in holding the income of the deceased to the tune of Rs.15,000/- per annum and consequently in assessing the dependency compensation on the said income. Shri Bagul further argued that once the pecuniary damages of Rs.75,000/- were granted by the Tribunal, the Tribunal should not have granted further sum of Rs.75,000/- under the head of pain and suffering. Learned Counsel, therefore, submitted that the compensation amount awarded by the Tribunal is unreasonable. Learned Counsel has, therefore, prayed for modification of the award.

5. Shri G.R.Syed, learned Counsel appearing for the original claimants, supported the award passed by the Tribunal.

6. After having considered the submissions advanced by the learned Counsel appearing for the respective parties, the only issue which arises for my determination is whether the -

compensation awarded by the Tribunal vide the impugned award can be said to be unreasonable.

7. After having considered the arguments advanced by the learned Counsel appearing for the respective parties and on going through the record of the case, it does not appear to me that the trial Court has committed any error in awarding the compensation of Rs.3,75,000/- in total. In so far as the contention of the appellant Corporation that the aspect on the contributory negligence was not considered by the Tribunal, the discussion made in the judgment shows that the Tribunal has recorded elaborate reasons for rejecting the defense raised by the appellant Corporation alleging contributory negligence on the part of the deceased. I do not find any perversity or incorrectness in the finding recorded by the Tribunal. In so far as the other aspect as regards award of pecuniary damages and damages towards pain and suffering is concerned, the submission made by the learned Counsel appearing for the appellant Corporation that damages can be awarded only under one head; either towards loss of pain or suffering. or under the head of future prospects, is wholly unacceptable. Thus, on both the counts, the appellant Corporation has not made out any case to warrant any interference in the impugned judgment

and award. The Tribunal has recorded sound reasons while arriving at the quantum of compensation and I do not see any reason to cause any interference in the finding recorded by the Tribunal or in the quantum of compensation arrived at. The appeal being devoid of any substance, stands dismissed.

8. It will be open for the claimants to withdraw the amount of compensation deposited by the appellant Corporation after a period of four weeks.

(P.R.BORA)
JUDGE

AGP/1554-11fa

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