

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

FIRST APPEAL NO. 290 OF 2013

1. Latabai Subhash Kothari,
Age 52 years, Occu: Household work,
2. Reshma Subhash Kothari,
Age 27 years, Occu: House work,

Both r/o. Bhutkarwadi,
in front of Sindhu Mangal Karyalaya,
Tq.Nagar, Dist. Ahmednagar.

**...APPELLANTS
(Orig.Claimants)**

VERSUS

1. Bansi Bhikaji More,
Age Major, Occu. Business,
R/o Pimpalgaon, Ujjani,
Tq. and Dist. Ahmednagar.
2. Royal Sundaram Alliance Insurance Co.Ltd.,
Regd. Office Sundaram Towers,
46, Whites Road, Royapeettah, Chennai 600 014

**...RESPONDENTS
(Orig.Opponents)**

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Mrs. Manjusha S. Jagtap, Advocate for Appellants
Mr. Avinash S. Deshpande, Advocate, for respondent no.2.
Respondent no.1 served through paper publication.

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CORAM : P.R. BORA, J.
Dated: April 07, 2016
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ORAL JUDGMENT:-

1. The original claimants have filed the present appeal

(2)**FA NO.290/2013**

taking exception to the judgment and award passed in MACP No.512/2010, decided on 23rd October, 2012, by the Motor Accident Claims Tribunal, at Ahmednagar. The only objection raised by the appellant is in respect of application of a wrong multiplier by the Tribunal while assessing the compensation. Learned Counsel appearing for the appellants submits that except the aforesaid objection, she is not pressing the other objections raised in the appeal.

2. Learned Counsel Mr.A.S.Deshpande appearing for the respondent Insurance Company sought to canvass that the Tribunal has correctly applied multiplier of 9 taking into account the age of the dependents and income of the deceased. The submission made by Shri A.S. Deshpande, learned Counsel, apparently, cannot be accepted in view of the law as is now settled in the case of **Sarla Verma & Ors vs Delhi Transport Corp.& Anr. (AIR 2009 SC 3104 (1))**.

3. On perusal of the judgment, it is revealed that the Tribunal has applied multiplier of 9 based on the age of the mother of the deceased, who was one of the claimants in the

aforesaid claim petition, and has accordingly assessed the compensation. The multiplier, as has been applied by the Tribunal, is apparently incorrect in view of the judgment of the Honourable Apex Court in the case of **Sarla Verma** (cited supra), and other subsequent judgments, in which the ratio laid down in **Sarla Verma's** case (cited supra) has been followed.

4. Age of deceased Rahul was 27 years on the date of the accident. There is no dispute as regards age of deceased Rahul. As per his age, multiplier of 17 ought to have been applied by the learned Tribunal. The Tribunal has, however, applied multiplier of 9 and has accordingly determined the amount of compensation. The mistake so committed by the Tribunal requires to be rectified and to that extent the impugned award needs to be modified.

5. The Tribunal has held the income of deceased Rahul to the tune of Rs.18,000/- per annum for assessing the amount of dependency compensation. By multiplying the said income with the multiplier of 9 the Tribunal has fixed the dependency compensation to the tune of Rs.1,62,000/- and has also awarded the compensation under the other heads to the

extent of Rs.18,000/-. The Tribunal has thus awarded total compensation amounting to Rs.1,80,000/-. By applying the proper multiplier i.e. of 17 to the amount of Rs.18,000/-, which the Tribunal has held to be available with the deceased for to be spent by him on the maintenance and for the welfare of his dependents, the amount of dependency compensation comes to Rs.3,06,000/- (18,000 x 17). Adding the amount of Rs.18,000/-, as has been awarded by the Tribunal towards loss of estate, funeral expenses, etc. in the aforesaid amount of dependency compensation, the total compensation amount comes to Rs.3,24,000/-. This is just and fair compensation payable to the appellants i.e. original claimants. The amount of compensation thus needs to be enhanced from Rs.1,80,000/- to Rs.3,24,000/-.

Save and except the enhancement in the amount of compensation as above, the other part of the impugned judgment and award shall remain as it is. Modified award be prepared accordingly. The appeal thus stands allowed to the aforesaid extent.

(**P.R. BORA, J.**)

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