IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 219 OF 2003

1. Sau.Yamunabai w/o Dattatraya
Munde, Age : 48 Yrs., Occ. Nil,
R/o : Dagadwadi, Tq. Ahmedpur,
Dist.: Latur.

2. Dattatraya s/o Sudam Munde
Age : 51 Yrs., Occ. Agril.,
R/o : Dagadwadi, Tq. Ahmedpur, **.... APPELLANTS/**
Dist.: Latur. **[ORI. CLAIMANTS]**

V E R S U S

1. Raosaheb s/o Eknathrao Badne
Age : 30 Yrs., Occ. Business,
R/o : Deokara, Tq. Ahmedpur,
Dist.: Latur.

2. Pralhad Eknathrao Badne
Age : 24 Yrs., Occ. Driver,
R/o : Deokara, Tq. Ahmedpur,
Dist.: Latur.

3. The New India Insurance Co.Ltd.
Through its Branch Manager
Branch office, Chandranagar, **.... RESPONDENTS/**
Latur. **[ORI. RESP. NOS. 1 TO 3]**

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Mr. B.R.Kedar, Advocate for Appellants.

Mr. S.G.Chapalgaonkar, Advocate for R.No. 3.

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CORAM : T.V.NALAWADE, J.

DATE OF JUDGMENT : 17th FEBRUARY, 2016

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JUDGMENT :

1. The Appeal is filed by the original claimants against the Judgment and Award of M.A.C.P. No. 361/1999, which was pending before the Motor Accident Claims Tribunal, Latur on being dis-satisfied on the quantum of compensation. Learned counsels for both sides are heard.

2. The accident took place on 06/05/1999. Deceased Hanmant Munde was son of claimants and he was aged about 25 years. It is contended that the deceased was M.A. B.Ed. and he would have given support to his parents in their old age. Under various heads, compensation of ₹ 4 Lakh was claimed.

3. For proving the claim, father of the deceased gave evidence and one witness was examined on the point of

negligence of the offending vehicle. Voluminous record is produced to show that the deceased had good academic career. He had completed M.A. course in the year 1998. He had completed B.Ed. course in the year 1997. He has produced so many N.C.C. certificates. There is record to prove his age.

4. The deceased was not employed at the relevant time and the Tribunal has presumed that the notional income of the deceased was ₹ 1,200/- per month i.e. ₹ 14,400/- per annum. 1/3rd amount is deducted from that amount and compensation of ₹ 1.75 Lakh is given.

5. The amendment in Motor Vehicles Act was made on 14/11/1994 and in that amendment, for the purpose of section 163-A, provision was made that when there is no evidence on income, the Tribunal can presume annual income as ₹ 15,000/-. Such income could have been presumed in respect of uneducated person, a labour. Surprisingly, the Tribunal has presumed that the annual income of the deceased was ₹ 14,400/-. Considering the educational qualification of the deceased i.e. M.A. B.Ed.,

deceased could have got employment even in junior college. Even if it is presumed that initially he could have got employment in school, it can be said that he could have earned at least ₹ 6,000/- per month by working as teacher. 50% amount from this amount could have been deducted and the Tribunal could have considered the loss of dependency per month as ₹ 3,000/-. Considering the age of the deceased, 17 could have been adopted as multiplier for calculation of loss of dependency. The loss of dependency comes to ₹ 6.12 Lakh if such income is presumed and 17 is used as multiplier. The amount of ₹ 15,000/- could have been given under the head of loss of love and affection and amount of ₹ 5,000/- could have been given under the head of funeral expenses. Thus, the amount of at least ₹ 6.32 Lakh could have been given in a proceeding filed u/s 166 of the Motor Vehicles Act. Meagre amount of compensation is given by the Tribunal. This Court holds that the decision of the Tribunal can not sustain in law. The interest @ 9% per annum be given on the compensation amount, as the nationalized banks were giving such interest on the fixed deposits at the relevant time.

6. In the result, following order is made.

[i] First Appeal No. 219 of 2003 is allowed.

[ii] The Judgment and Award of the Tribunal is modified to make the compensation amount as ₹ 6.32 Lakh.

[iii] Interest @ 9% per annum is payable on the entire amount of compensation from the date of petition till the realization of amount.

[iv] After deposit of the amount in the Tribunal, it be equally distributed between mother and father of the deceased and be paid by account payee cheque.

[v] Award be prepared accordingly.

[T.V.NALAWADE, J.]