

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 492 OF 2005

1. Shivram Ramaji Kokare,
 Age: 67 years, Occ: Agri.,
 R/o Murshadpura, Tq. Ashti,
 Dist. Beed.

2. Housabai Shivram Kokare,
 Age: 62 years, Occ: Household,
 R/o Murshadpura, Tq. Ashti,
 Dist. Beed.
 Both the appellants have died
 through L.Rs.

Ramchandra s/o Shivram Kokare,
 Age: 42 years, Occ: Service,
 R/o Mushadpur, Tq. Ashti,
 Dist. Beed.

... Appellant

Vs.

1. Riyazuddin R. Shaikh,
 Age: Major, Occ: Transport Business,
 R/o 1st Floor, R.M. House,
 Jama Masjid Lane, Khorani Road,
 Sakinaka, Mumbai – 72.

2. New India Assurance Company Ltd.,
 through Branch Manager,
 Branch Office, Beed.

... Respondents

Mr. V.M. Chate, Advocate for the Appellant.

Mrs. A.N. Ansari, Advocate for the respondent no.1.

Mr. Dhananjay Deshpande, Advocate for respondent no.2.

CORAM : P.R. BORA, J.

DATE : 15-10-2016.

ORAL JUDGMENT :

1. The present appeal is filed seeking enhancement in the amount of compensation awarded by the Motor Accident Claims Tribunal, Beed in M.A.C.P. No. 174 of 2001 decided on 26.10.2004.

2. Though, in the memo of appeal several grounds of objection are raised in exception to the impugned judgment and award. During the course of the argument, the learned counsel appearing for the appellant, pressed into service only two grounds in exception to the impugned award first that, the tribunal has grossly erred in applying the multiplier of 7 when having regard to the age of the deceased to be 26 years appropriate multiplier could have been of 17. Another ground which is pressed by the learned counsel is in respect of the meager amount awarded by the tribunal towards non-pecuniary damages. The learned counsel, therefore, has prayed for enhancing the amount of compensation under the aforesaid heads and to modify the impugned award to the aforesaid extent.

3. Shri Deshpande, learned counsel appearing for the insurance company has supported the impugned judgment and submitted that no interference is warranted in the impugned judgment and award. Mrs. Ansari, learned counsel appearing for respondent no.1 has prayed for passing appropriate orders.

4. It is not in dispute that, the age of deceased was 26 years. On perusal of the judgment, it is revealed that, the learned Tribunal has applied the multiplier of 7 while determining the amount of compensation. There is, therefore, substance in the objection raised on behalf of the appellant. Having regard to the

age of the deceased the appropriate multiplier would be of 17. The mistakes so committed by the tribunal needs to be corrected. As held by the tribunal the annual dependency of the original-petitioners on the income of deceased was to the tune of Rs. 16,008/- The said amount is to be multiplied by 17 so as to determine the amount of dependency compensation which comes to Rs. 2,72,136/-. The tribunal has awarded a sum of Rs. 10,000/- each for loss of love and affection and Rs. 10,000/- for funeral expenses. The compensation so awarded by the tribunal is certainly inadequate. I deem it appropriate to enhance the said amount to Rs. 60,000/-. The petitioners are, thus, held entitled for the total compensation of Rs. 3,32,136/-

5. In the facts and circumstances of the case, it appears to me that, the compensation as aforesaid would be the just and fair compensation payable to the petitioners. The amount of compensation is enhanced to the aforesaid extent. The impugned award be modified accordingly. The applicants are entitled to interest on the aforesaid enhanced amount of compensation @ 7.5% interest per annum from the date of application till realisation. Appeal stands allowed in the aforesaid terms.

(P.R. BORA)
JUDGE