

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

FIRST APPEAL NO.3239 OF 2015

1. Sumanbai w/o Bhagwan Dhas
Age 41 years, Occu: Household
2. Bhagwan s/o Maruti Dhas ... Applicants
Age 45 years, Occu: Agri.

Both R/o Talnewadi Tq. Gevrai,
Dist. Beed.

VERSUS

The Maharashtra State Road ... Respondent
Transport Corporation,
Through Divisional Controller,
MSRTC, Beed.

Mr. S. S. Chapalgaonkar, Advocate for appellants,
Mr. D. S. Bagul, Advocate for the respondent sole.

CORAM : V. K. JADHAV, J.

DATE : 16th March, 2016

PER COURT :

1. Heard finally with consent of the parties at admission state.

2. Being aggrieved by the judgment and award passed by the learned Member, Motor Accident Claim Tribunal, Beed dated 09.01.2014 in MACP No. 21/2011, the original claimants have preferred the present appeal to the extent of compensation awarded under non pecuniary heads by the

Tribunal.

3. It is not disputed that the deceased Maruti Dhas died of vehicular accident on 16.12.2012 at about 10.00 a.m. in front of Godavari Pipe Factory on Gevrai-Shahgad road on account of rash and negligent driving of ST Bus bearing MH 20/D-8430. It is also an admitted fact that the accident had occurred due to negligence of driver of the ST Bus alone and rider of the motorcycle involved in the accident was not responsible for the accident.

4. Learned counsel for the appellants submits that the Tribunal has awarded very meager amount towards loss of estate and towards funeral expenses. The learned counsel submits that the Tribunal has awarded only Rs.4500/ on both counts together. The learned counsel further submits that the tribunal has awarded only @ 6% per annum interest and the same is required to be awarded @ 9% per annum.

5. The learned counsel for the respondent MSRTC submits that the Tribunal has rightly awarded the compensation under non pecuniary heads considering the facts and circumstances of the present case.

6. It appears from the judgment and award that the

Tribunal has awarded very meager amount towards loss of estate and towards funeral expenses. The deceased was only 24 years of age when he met with an accidental death. The appellants are hailing from village Talnewadi Tq. Gevrai, Dist. Beed. Accident had taken place on Gevrai-Shagad road in front of one pipe factory. After the accident, deceased was required to be shifted to Government Hospital, Beed and thereafter his dead body was taken to village Talnewadi for funeral purpose. It appears that the learned Member of the Tribunal has not considered the same. In view of the same, an amount of Rs.15,000/- for funeral expenses and Rs.10,000/- towards loss of estate in this case would be an appropriate award of compensation. Further, the tribunal ought to have awarded interest @ 9% per annum instead of 6% per annum. Hence following order is passed:

O R D E R

- i. First appeal is partly allowed.
- ii. The judgment and Award dated 09.01.2014 passed by the learned Member of the Motor Accident Claims Tribunal, Beed dated 09.01.2014 in MACP No. 21/2011 is modified to the following effect:

The respondent do pay Rs.4,30,000/- (Rupees four lakhs thirty thousand only) including amount under no fault liability alongwith interest @ 9% per annum from the date of claim petition i.e. 24.01.2011 till realization of the amount.

iii. Rest of the judgment and award of the tribunal stands confirmed.

iv. Appeal is accordingly disposed of.

v. In the circumstances, there shall be no order as to costs.

(V. K. JADHAV, J.)

JPC