

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

...
FIRST APPEAL NO. 1093 OF 2002
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1. Ramesh Prabhakar Adhav,
age Major, Occ. Tempo owner,
R/o Jeur Baijabaiche, Taluka
Nagar, District Ahmednagar.
2. New India Assurance Co. Ltd.,
having its head and registered
office at New India Assurance
Building, 87, M.G. Marg, Fort,
Mumbai and having Divisional
Office at Ahmednagar and
at Aurangabad. ..Appellants..

VERSUS

1. Smt. Saraswatibai Shankarrao Nikam,
age 47 years, Occ. Agril.
2. Dhananjaya Shankarrao Nikam,
age 21 yrs, Occ Student.
3. Sandeep Shankarrao Nikam,
age 19 years, Occ. Student.
4. Ujwala Shankarrao Nikam,
age 23 years, Occ. Student.
5. Madhav Bhau Nikam.
6. Shivbai Madhav Nikam.
Resp No.5,6 both are shown
as dead. ..Respondents..

All R/o of Katrad, Taluka Rahuri,
Dist. Ahmednagar.

7. Baliram Maruti Todamal,
age major, Occ. Driver,
R/o Todawal Wadi, Post Jeur
Taluka Nagar, Dist. Ahmednagar. ..Respondents..

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Advocate for Appellants : Shri D S Kulkarni h/f S.L.
Kulkarni

Advocate for Respondents 1-4 : Mr N C Garud

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CORAM : V.K. JADHAV, J.

Dated: March 18, 2016

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ORAL JUDGMENT :-

1. Being aggrieved by the Judgment and Award passed by the learned Member, Motor Accident Claims Tribunal, Ahmednagar dated 1.7.1999 in M.A.C.P. No.531 of 1992, the owner and insurer preferred this appeal.

2. Brief facts giving rise to the present appeal. are as under :-

The accident had taken place on 28.5.1992 at about 17.30 hours at Ahmednagar-Manmad road within the limits of village Rahuri. At the relevant time, deceased Shankarrao Nikam was driving the motorcycle and on the way, one tempo came from back side and gave dash to his motor cycle, in consequence of which,

deceased Shankarrao Nikam died on the spot. The Respondents-original claimants preferred M.A.C.P. 531 of 1992 for claiming compensation against the Respondents owner and insurer of the vehicle involved in the accident. The learned Member of the Motor Accident Claims Tribunal, Ahmednagar, by its impugned Judgment and order dated 1.7.1999 partly allowed the petition and thereby directed the present appellants to pay an amount of Rs.4,14,000/- inclusive of 'No Fault Liability' to the respondents-claimants alongwith interest from the date of application till the realization. Being aggrieved by the same, the owner of the vehicle involved in the accident and the insurer preferred this appeal jointly to the extent of quantum of compensation, most particularly to the extent of Rs.1.00 lac in excess stated to have been awarded by the Tribunal.

3. The learned counsel for the appellant submits that, the learned Member of the Tribunal has awarded excessive compensation to the extent of Rs.1,00,000/- (Rs one lac). The same is without any base. The learned counsel submits that, the appeal may be

allowed to that extent.

4. Learned counsel for respondents/claimants submits that, the Tribunal has rightly assessed the compensation and awarded just and reasonable compensation to the respondents/original claimants. Hence, the appeal be dismissed.

5. Following points arises for my determination and I have recorded my findings to those points for the reasons given below :-

S.No.	POINTS	FINDINGS
1	Whether the Tribunal has rightly assessed the compensation ?	Yes.
2	Whether the impugned Judgment and Award calls for any interference ?	No.
3	What order ?	As per final order.

REASONS

6. Deceased Shankarrao was doing the business of manufacturing brick and also dealt with transport business. He was also cultivating his agricultural land.

It appears that, the Tribunal has rightly considered the supervisory and Managerial skill of the deceased Shankarrao and accordingly assessed his monthly income at Rs.4,000/-. After deducting the amount towards his personal expenses, the annual dependency is considered at Rs.3,000/- p.m. corresponding to Rs. (3,000 x 12) = Rs.36,000/- per year. Considering the age of the deceased Shankarrao at the time of his accidental death, the Tribunal has rightly applied the multiplier '11'. Thus, after considering the dependency and after awarding the compensation under the non-pecuniary heads such as loss of estate and consortium Rs.15,000/-, for funeral Rs.3,000/-, the total amount of compensation awarded is Rs.4,14,000/-. I do not find any fault in the impugned judgment and order. No interference is called for. There is no merit in the appeal. I accordingly answer the points and proceed to pass the following order.

O R D E R

- I. The appeal is hereby dismissed.

- II. In the circumstances, there shall be no order as to costs.
- III. In response to the order passed by this Court, the appellants have deposited the entire amount under the Award before this Court. The Respondents-claimants are entitled to withdraw the same alongwith accrued interest.
- IV. Award be drawn up accordingly.
- V. First Appeal is disposed of.

sd/-

(V.K. JADHAV, J.)

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aaa/-