

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 159 OF 2016

VIMALBAI RAOSAHEB BHUJANG AND OTHERS
VERSUS
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION
THROUGH ITS DIVISIONAL CONTROLLER, AURANGABAD

...
Advocate for Appellants : Mr. Gore Ravindra Vitthal
Advocate for Respondents : Mrs. Ranjana Reddy
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CORAM : V. K. JADHAV, J.
DATED : 1st APRIL, 2016

PER COURT:-

1. With consent, heard finally at admission stage.
2. Being aggrieved by the judgment and award dated 30.6.2007 passed by learned Member, M.A.C.T. Aurangabad in M.A.C.P. No. 239 of 2006, the original claimants have preferred this appeal to the extent of quantum of compensation.
3. Brief facts, giving rise to the present appeal, are as under:-

On 20.2.2006, deceased Raosaheb was returning from Hadgaon to Jalna on motorcycle. On way, S.T. bus bearing registering No. MH-12-UA-894 gave a dash to his motor cycle, in consequence of which, deceased Raosaheb died on the spot. Legal

representatives of deceased Raosaheb preferred claim petition M.A.C.P. No. 239 of 2006 before M.A.C.T., Aurangabad for grant of compensation under various heads. Learned Member of the Tribunal, has awarded compensation of Rs.3,00,000/- with interest. Being aggrieved by the same, the original claimants have preferred this appeal to the extent of quantum.

4. Learned counsel for the appellants submits that the Tribunal has not considered notional income of deceased Raosaheb. Learned counsel submits that the Tribunal should have considered income of deceased Raosaheb as Rs.3000/- p.m. Learned counsel submits that the Tribunal has also not correctly awarded compensation under non pecuniary heads. Learned counsel for the appellants submits that considering the dependency of claimants, the Tribunal should have deducted 1/4th amount towards personal expenses instead of deducting 1/3rd amount.

5. Learned counsel for respondent M.S.R.T.C. submits that in absence of income proof, Tribunal has rightly considered the income of deceased Raosaheb as Rs.75/- per day being paid to the agricultural labourer, and accordingly calculated the compensation. Learned counsel submits that the Tribunal has committed error in applying multiplier 15 instead of 14. Deceased Raosaheb met with

an accidental death at the age of 45 years. Learned counsel submits that the Tribunal has correctly awarded the compensation under non pecuniary heads.

6. Deceased Raosaheb was an agriculturist labour. According to the claimants, he was earning Rs.4000/- per month and all claimants were dependent on his earning. It is true that no income proof was submitted before the Tribunal. However, considering the date of accident, it would be just and appropriate to consider notional income of deceased Raosaheb as Rs.3000/- p.m. corresponding to Rs.36,000/- per year. It also appears that claimants No.1 is the widow, claimant Nos. 2 and 3 are the minor children aged 7 and 12 years respectively, at the time of filing of claim petition and claimant No.4 is widowed mother of deceased Raosaheb. Under these circumstances, it would be appropriate to deduct 1/4th amount from the income of deceased towards his personal expenses. Learned Member of the Tribunal has incorrectly applied multiplier 15 instead of 14. After deducting 1/4th amount from the income of deceased towards the personal expenses, loss of income/dependency comes to Rs.27,000/- per year. By applying multiplier 14, the total "loss of income/dependency" comes to Rs.3,78,000/-. Learned Member of the tribunal has correctly awarded compensation under the non pecuniary heads except "funeral expenses", which is awarded as

Rs.5,000/- and the same is required to be enhanced to Rs.10,000/-. Furthermore, the Tribunal has also not awarded compensation under the head of "loss of love and affection" to minor claimant Nos. 2 and 3. It would be appropriate to award Rs.10,000/- each to claimant Nos 2 and 3 for "loss of love and affection". Thus, the break-up of the compensation, which can be broadly categorized as under:-

i)	Loss of income/dependency	Rs.3,78,000.00
ii)	Loss of consortium	Rs. 25,000.00
iii)	Loss of love and affection for claimant Nos. 2 and 3 (Rs. 10,000/- each)	Rs. 20,000.00
iv)	Funeral expenses	Rs. 10,000.00

		Rs.4,33,000.00
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The claimants are thus entitled for compensation of Rs.4,33,000.00, (Rupees Four lacs thirty three thousand only).

7. In view of the above, I proceed to pass the following order:-

O R D E R

- I. The first appeal is hereby partly allowed.
- II. The judgment and award passed by learned Member, M.A.C.T. Aurangabad dated 30.6.2007 in M.A.C.P. No.

239 of 2006 is hereby modified to the following effect;-

The claimants are entitled to Rs.4,33,000/- (Rupees Four lacs thirty three thousand only) (including the amount of no fault liability) with interest thereon at the rate of 7.5% per annum from 29.3.2006 till its realization, excluding the period as per undertaking submitted by the claimants thereby waiving interest of the period for which the condonation of delay was sought.

- III. Rest of the judgment and award stands confirmed.
- IV. Award be drawn up accordingly.
- V. The first appeal is accordingly disposed of.

(V. K. JADHAV, J.)

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