IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

FIRST APPEAL NO. 4072 OF 2008

Chetna w/o. Satish Kalyan,
Age 23 years, Occu. Household,
R/o. Naigaon (Bk), Tq. Naigaon (Kh),
Dist. Nanded. **....Appellant.**
(Ori. Petitioner)

Versus

1. Omprakash s/o. Sakharam Podjale,
Age Major, Occu. Business,
R/o. Usmannagar, Tq. Kandhar,
Dist. Nanded.

2. The New India Assurance Company Ltd.,
Nanded, Through its Branch Manager,
Branch Nanded.

3. Laxmibai w/o. Govindrao Kalyan,
Age 48 years, Occu. Household,

4. Govindrao s/o. Baliram Kalyan,
Age 55 years, Occu. Nil,

Respondent Nos. 3 and 4,
R/o. Naigaon (bk), Tq. Naigaon (Kh),
Dist. Nanded. **....Respondents.**

Mr. S.V. Suryawanshi h/f. Mr. S.S. Patil, Advocate for appellant.

Mr. S.G. Chapalgaonkar, Advocate for respondent No. 2.

Mr. P.R. Katneshwarkar, Advocate for respondent Nos. 3 and 4.

CORAM : T.V. NALAWADE, J.
DATED : 11th February, 2016.

JUDGMENT :

1) The appeal is filed by claimant of Claim Petition No.

22/2005, which was pending before the Claims Tribunal, Biloli, Dist. Nanded. The appeal is filed to challenge the quantum of compensation. Both the sides are heard.

2) The accident took place on 26.11.2004. Deceased Satish was aged about 24 years and the claim was filed by the widow of deceased and parents of deceased. It is the case of claimant that by doing business, deceased was earning Rs. 5,000/- per month and all the claimants were depending for livelihood on the income of the deceased.

3) The owner and Insurance Company had filed written statement and had contested the matter by denying the aforesaid contentions. It appears that when the accident had taken place in the year 2004, the Tribunal presumed that notional income of deceased was Rs. 15,000/- per annum. The proceeding was filed under section 166 of Motor Vehicles Act. 17 was used as multiplier for calculation of loss of dependency and 1/3rd amount from the aforesaid amount was deducted towards personal expenses. Due to such approach, meager amount of compensation, the amount of Rs. 1.26 lakh is awarded and the interest at the rate of 6% p.a., that too from the date of decision is awarded by the Tribunal.

4) In view of the facts and circumstances of the present case and the number of persons, who were depending on the deceased, this Court holds that it needs to be presumed that the monthly income of deceased was around Rs. 3,000/-. At the most, 1/3rd amount could have been deducted towards personal expenses, so there is monthly loss of Rs. 2,000/-. In view of the age of the deceased, 18 can be adopted as a multiplier for calculation of loss of dependency. The amount of loss of dependency comes to Rs. 4.32 lakh (2000 x 12 x 18). This Court holds that the widow, who is aged about 20 years, is entitled to get Rs. one lakh under the head of loss of consortium. The claimants are entitled to atleast Rs. 25,000/- under the head of the amount required to be spent on conveyance of dead body, funeral and other rites. Thus, the total amount of compensation comes to Rs. 5.57 lakh. At the relevant time, the rate of interest of nationalised bank on fixed deposit was 9% p.a. So, the claimant is entitled to get interest at the rate of 9% p.a. The interest needs to be paid from the date of petition till the date of realisation. In the result, following order is made.

O R D E R

1. Appeal is allowed. The judgment and award of Tribunal is modified to make total amount of compensation as

Rs. 5,57,000/- (Rupees five lakh fifty seven thousand) under the principle of fault. The amount is inclusive of amount, if any, paid under the principle of no fault. The interest at the rate of 9% p.a. will be payable from the date of petition till the realisation of entire amount. The disbursement of the amount is to be made as per the judgment and award in the same proportion. Award is to be prepared accordingly.

[T.V. NALAWADE, J.]

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