

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

FIRST APPEAL NO. 2851 OF 2008

Hirabai Giridhar Kale

Age : 60 Yrs., Occ. Nil,

R/o : Pravaranagar, Tq.

Rahata, Dist.: Ahmednagar.

.... APPELLANT/

[ORI. CLAIMANT]

V E R S U S

1. Mohommad Hanif Yusuf Shaikh

Age : Major, Occ. Business,

R/o : 682, Bazaar Lane, Kasba

Wada, Dist.: Kolhapur.

2. The Divisional Manager

The National Insurance Co.Ltd.,

Branch Raj Chambers,

Tq. & Dist. Ahmednagar.

.... RESPONDENTS/

[ORI. OPPONENTS]

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Mr. R.A.Tambe, Advocate for Appellant.

Mr. S.P.Chapalgaonkar, Advocate for R.No. 2.

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CORAM : T.V.NALAWADE, J.

DATE OF JUDGMENT : 12th FEBRUARY, 2016

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JUDGMENT :

1. The Appeal is filed by the original claimant against the Judgment and Award of M.A.C.P. No. 239/2002, which was pending before Motor Accident Claims Tribunal, Shrirampur, district Ahmednagar. The appellant/claimant is not satisfied with the amount of compensation given by the Tribunal and so present Appeal is filed. Learned counsels for both sides are heard.

2. The accident took place on 25/05/2002 at about 1.00 p.m. The deceased Deepak Kale was son of original claimant. Father of deceased died during the pendency of proceeding and the matter was prosecuted by the mother, aged about 55 years. It is contended that the age of the deceased was 24 years and he was making income of ₹ 5,000/- to ₹ 6,000/- per month by running floor Mill and by working as salesman in one co-operative society. It is the case of the claimants that they were totally depending on the income of the deceased for their livelihood.

3. The claim was contested by insurance company. To substantiate the claim, the mother of the deceased gave

evidence and her evidence is as per the aforesaid contentions. She has given evidence that the deceased had done I.T.I. Course of machinist. Certificate issued in that regard by the Principal of I.T.I., Ahmednagar is produced at Exh. 30. Certificate issued by Higher Secondary Board shows that in the year 1989 deceased passed 12th standard examination. One certificate was issued by Govt. of India as National Trade certificate in respect of the industrial training undergone by the deceased.

4. The passing certificate issued by Higher Secondary Board shows that the deceased was born in the year 1973.

5. The Tribunal presumed that the loss of dependency per annum was ₹ 20,000/-. The Tribunal adopted 12 as multiplier on the basis of the age of the mother of the deceased and gave compensation of ₹ 2.08 Lakh.

6. In view of the aforesaid record, this Court holds that the Tribunal could have easily presumed that in the year 2002, deceased was earning at least ₹ 3,000/- per month. As

he was unmarried, 50% amount could have been deducted towards personal expenses. In view of the age of the deceased, 17 can be adopted as multiplier for calculation of loss of dependency. Learned counsel for the claimant placed reliance on the reported case in (2009) 6 SCC 121 – Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. and submitted that the age of the deceased needs to be taken as the base for adopting multiplier. There is force in this submission. This Court holds that the amount of ₹ 15,000/- can be given under the head of loss of love and affection and amount of ₹ 3,000/- can be given for funeral expenses. Thus, the total amount of compensation comes to ₹ 3.24 Lakh [3,06,000+15,000+3,000]. The Tribunal has granted interest @ 6% per annum. This Court holds that in view of the rate of interest given by the nationalized banks, interest @ 9 % per annum needs to be given.

7. In the result, following order is made.

[i] First Appeal No. 2851 of 2008 is allowed

[ii] The Judgment and Award of the Motor Accident Claims Tribunal, Shrirampur, district Ahmednagar is modified to make the

compensation as ₹ 3,24,000/- [Rupees Three Lakh Twenty Four Thousand] which is inclusive of the amount which must have been paid under the principle of 'no fault'.

[iii] The interest @ 9% per annum is payable on the entire compensation amount from the date of petition till the date of realization of the amount.

[iv] Award be prepared accordingly.

[T.V.NALAWADE, J.]