IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 495 OF 2007

1. Balaji s/o Pandurang Phad
   Age : 48 Yrs., Occ. Labour,
   R/o : Dharmapur, Tq. Parali,
   Dist. Beed.

2. Mahananda w/o Balaji Phad
   Age : 46 Yrs., Occ. Household,
   R/o : Dharmapur, Tq. Parali, **.... APPELLANTS/**
   Dist. Beed. **[ORI. CLAIMANTS]**

V E R S U S

Maharashtra State road Transport
Corporation, Through its
Divisional Controller, Bus stand, **.... RESPONDENT/**
Beed. **[ORI. RESPONDENT]**

....

Mr. G.K.Thigale, Advocate for Appellants.
Mr. A.B.Dhongade, Advocate for Respondent.

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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 claimants against the Judgment and Award of M.A.C.P. No. 106/2003, which was pending before Motor Accident Claims Tribunal, Ambajogai, district Beed. The original claimants have challenged the decision to get more compensation. Learned counsels for both sides are heard.

2. Deceased Apparam Balaji Phad was a son of claimants and he was aged about 19 years. He was unmarried. At the relevant time, age of the mother of deceased was 46 years. It is the case of the claimants that monthly income of deceased was at least ₹ 2,000/-. He died in the accident dated 05/10/2003. It is the case of the claimants that due to the death of Apparam, there is loss of dependency and they had no other source of income.

3. The proceeding was opposed by the owner of bus viz. M.S.R.T.C. To substantiate the claim, the father of deceased examined himself. He has given evidence that the deceased was working on daily wages and he was getting at least ₹ 100/-. per day. In postmortem report, the age of the

deceased is mentioned as 20 years.

4. The Tribunal presumed that the monthly income of the deceased was ₹ 1,800/-. The Tribunal deducted 1/3rd amount from the monthly income and used 10 as multiplier for calculation of loss of dependency. The Tribunal has given amount of ₹ 5,000/- under the head of loss of love and affection and the amount of ₹ 5,000/- is given for funeral expenses. Thus, total amount of compensation comes to ₹ 1.45 Lakh as given by the Tribunal.

5. The accident took place in the year 2003. By making amendment to Motor Vehicles Act in the year 1994, a table was added for use of provision of Section 163-A of the Motor Vehicles Act and it was provided that notional income can be presumed as ₹ 15,000/- per annum. The accident took place after about 10 years of the said amendment. In the year 2003, ordinarily a labour was in a position to earn at least ₹ 3,000/- per month and such income can be presumed in this case. Just amount of compensation needs to be awarded by the Tribunal and the Tribunal is not expected to be stick to the contentions made by the claimants, who are

from village and illeterate persons.

6. In the present case, 50% amount could have been deducted for personal expenses and so the Tribunal ought to have presumed that there is monthly loss of ₹ 1,500/- to the parents. Reliance was placed on the case reported in ***2013 (15) SCC 603 – M.Mansoor & Anr. Vs. United India Insurance Co. Ltd. & Anr***. by the learned counsel for the claimants. In that case, the age of the deceased was taken as base for using the multiplier. In view of this decision and the ratio laid down in ***AIR 2009 SC – 3104 – Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.,*** this Court holds that 18 can be adopted as multiplier for calculation of loss of dependency. Thus, the loss of dependency comes to ₹ 3,24,000/-. This Court holds that amount of ₹ 50,000/- 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 compensation amount comes to ₹ 3,77,000/-. The Tribunal has granted interest @ 7.5% per annum. At the relevant time, nationalized banks were giving interest @ 9% per annum on fixed deposit. This Court holds that decision of the Tribunal

needs to be modified in respect of rate of interest also and the rate of interest should be given @ 9% per annum.

7. In the result, following order is made.

[i] First Appeal No. 495 of 2007 is allowed.

[ii] The Judgment and Award of the Tribunal is modified to make the total compensation of ₹ 3,77,000/- [Rupees Three Lakh Seventy Seven 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 amount.

[iv] After depositing the amount in Tribunal, the amount is to be equally distributed between the mother and father of the deceased by account payee cheque.

[v] Award be prepared accordingly.

[T.V.NALAWADE, J.]