

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**919 FIRST APPEAL NO.3685 OF 2016
WITH CA/13476/2016 IN FA/3685/2016**

1. Bhimrao S/o. Nivratti Shendge,
Age:75, Occu.: Agri,
R/o. Kajala, Tal. & Dist. Osmanabad.
2. Rasika w/o Bhimrao Shendge,
Age:70, Occu.: Household,
R/o. Kajala, Tal. & Dist.: Osmanabad.

...APPELLANTS

VERSUS

1. Sonali w/o Subhash Shendge,
Age- Occu.:Household
R/o. Kajala, Tal.& Dist.: Osmanabad
At present C/o. F.D.Deshmukh,
Kakde Plot, Datta Nagar, Osmanabad
2. Pratham S/o. Subhash Shendge,
Age: Minor, Occu.:Education
3. Piyush S/o. Subhash Shendge,
Age:Minor, Occu.:Education,

(Respondent No.2 & 3 are Minor
U/g. of Respondent No. 1 Mother)

4. Maharashtra State Road
Transport Corporation,
Works Manager S.T.C.W.,
Aurangabad, Through the
Divisional Controller,
M.S.R.T.C., Osmanabad.
(Owner of S.T. Bus No.
MH-20/BL-0512)

...RESPONDENTS

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Advocate for Appellants : Mr. Choudhari Sushant B
Mr. Kolpe Mahendra B. Adv. For Resp 1 To 3.

CORAM : P.R.BORA, J.

DATE : 22nd November, 2016.

ORAL JUDGMENT:

1) Heard the learned Counsel appearing for the respective parties.

2) A very short question is involved in the present appeal, - whether the compensation awarded by the Motor Accident Claims Tribunal, Osmanabad (for short the Tribunal) to parents of the deceased, can be said to be in a just proportion ?

3) The learned counsel, appearing for the appellants, submitted that the appellants, who are parents of the deceased, were fully depending upon the income of the deceased, and as such, the

compensation ought to have been awarded to them in equal proportion of the widow and children of the deceased.

. The learned counsel further submitted that the Tribunal has awarded a meager sum of Rs.1,00,000/- each to the parents of the deceased. The learned counsel, therefore, prayed for modification of the impugned Award and consequently to direct payment of compensation in equal proportion to the present appellants.

4) The contention so raised is opposed by the learned counsel appearing for respondents Nos.1 to 3, i.e. widow and the children of the deceased. The learned counsel submitted that ample evidence has come on record showing that the parents have independent source of income and they are able to live comfortably with the income, as is received to them presently. The learned counsel further submitted that even otherwise, having regard to the age of father of deceased, i.e. above 70 years and the age of

mother of the deceased, around 65 years, it cannot be said that the Tribunal has committed any error in awarding compensation to them to the tune of Rupees one lac each.

. The learned counsel further submitted that the agricultural lands, which were being cultivated by the deceased, are now being cultivated by his parents, i.e. present appellants and the entire income is being taken by them. In the circumstances, according to learned counsel, no interference is required in the amount of compensation so awarded by the Tribunal.

5) After having considered the submissions advanced by the learned Counsel appearing for the respective parties and on perusal of the discussion made by the Tribunal in the impugned judgment, apparently it appears to me that the Tribunal has not awarded the just amount of compensation to the parents of the deceased. From the fact stated by the learned counsel for the

respondents, that the agricultural lands are now being cultivated by the parents of the deceased and income thereof is also being taken by them, a reasonable inference can be drawn that the parents of the deceased are having some source of livelihood. However, it also cannot be ignored that at the old age, the parents of the deceased have lost their son, who could have been their support in the advanced stage of their life. Though it was pointed out that the deceased is survived by another brother and he is looking after his parents, the averments made in the claim petition to the effect that the parents of the deceased were depending upon the income of the deceased, cannot be lost sight of. It has to be stated that the claim petition was filed by the widow and the children of the deceased and present appellants were opponents therein.

6) Having considered the available evidence on record, it appears to me that if the amount of compensation, to be awarded to the present

appellants, is enhanced by Rs.2,00,000/- each, meaning thereby that if the present appellants are awarded the compensation of Rs.3,00,000/- each, out of the compensation awarded and deposited by the M.S.R.T.C., that would meet the ends of justice. Hence, the following order, -

ORDER

i) The appellants are held entitled for compensation of Rs.3,00,000/- (Rupees Three lakhs) each;

ii) The Tribunal shall pay the aforesaid amount to the present appellants out of the amount deposited by M.S.R.T.C. in satisfaction of the Award passed by the Tribunal in MACP No. 192/2011;

iii) The First Appeal stands allowed in the aforesaid terms. Pending Civil Application, if any, stands disposed of.

(P . R . BORA)
JUDGE

bdv/