

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

**First Appeal No.821 of 2015**

- 1) Surekha w/o Annasaheb @  
Anand Sonawane,  
Age 27 years,  
Occupation : Household.
- 2) Maina d/o Annasaheb Sonawane,  
Age 12 years,  
Occupation : Education.
- 3) Shiv s/o Annasaheb Sonawane,  
Age 10 years,  
Occupation : Education.
- 4) Om s/o Annasaheb Sonawane,  
Age 7 years,  
Occupation : Education.
- 5) Kohinoor s/o Annasaheb Sonawane,  
Age 5 years,  
Occupation : Education.

Appellants 2 to 5 minors  
through their mother natural  
guardian - appellant No.1.

- 6) Chandrabha w/o Popat Sonawane,  
Age 63 years,  
Occupation: Nil.  
All R/o Sarjepura,  
Near Rangbhavan,  
District Ahmednagar.

**.. Appellants.**

**Versus**

- 1) Ajay s/o Shriram Jaggi,  
Age 45 years,  
Occupation: Transport

R/o P-16, MIDC, Nagapur,  
Taluka & District  
Ahmednagar.

- 2) Divisional Manager,  
The Oriental Insurance  
Co. Ltd. Shivam Chamber,  
Opposite of Zopadi Canteen  
District Ahmednagar.

**.. Respondents.**

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Shri. V.R. Autade, Advocate, for appellants.

Shri. Uday S. Malte, Advocate, for respondent No.2.

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**CORAM: T.V. NALAWADE, J.**

**DATE : 3rd MARCH 2016**

**JUDGMENT:**

1) The appeal is admitted. Notice after admission, made returnable forthwith. By consent heard both sides for final disposal.

2) The appeal is filed by original claimants of Claim Petition No.186/2007 which was pending before the Claims Tribunal Ahmednagar. The claimants have challenged the decision of the Tribunal on the point of quantum of compensation.

3) Deceased Annasaheb @ Anand Sonawane was aged about 30 years. He was husband of claimant No.1. Claimant Nos.2 to 5 are minor issues of claimant No.1 born from the deceased. Claimant No.6 Chandrabhaga is widowed mother of deceased and she was aged about 58 years at the relevant time.

4) The accident took place on 19-2-2007 within the local jurisdiction of Topkhana Police Station. Crime at CR No.60/2007 was registered in respect of this accident. It is the case of the claimants that the deceased was running an agency and he was taking contracts of repairs and cleaning of bungalows and from that business he was making income of Rs.3000/- to 4000/- per month. It is contended that in addition, he was in the employment of the Ahmednagar Municipal Corporation as a sweeper and there he was getting monthly salary of Rs.6,192/-. It is contended that the monthly income of the deceased was more than Rs.8,000/- and all the claimants were dependent for their livelihood on the income of the deceased. It is contended that the age of the deceased was around 30 years at the relevant time. The claim

petition was contested by the insurance company by filing written statement and it denied everything.

5) To substantiate the claim, the widow gave evidence which is as per the aforesaid contentions. In the cross-examination of the widow it is brought on the record that after the death of the husband, the widow was given appointment on similar post on compassionate ground and in the year 2011 she was getting monthly salary of Rs.12,300/-.

6) To prove the salary income of the deceased one employee of the Corporation of Ahmednagar is examined and in his evidence the salary bill is proved as Exhibit 24. It shows that the gross salary of the deceased for the month of January 2007 was Rs.6,192/-. School record is produced to show that he was born on 21-5-1972. Thus he was aged about 37 years on the date of the accident. In post mortem report, opinion is given that the age of the deceased was around 35 years. It can be presumed that the monthly income of the deceased was Rs.6100/-. In view of the ratio of the case of **(2009) 6 SCC 121 (Sarla**

**Verma v. Delhi Transport Corporation)** this Court holds that in view of the age of the deceased 50% increase in the salary income needs to be given in view of the future prospects. Thus, it needs to be presumed that on the date of the accident, the monthly income was around Rs.9150/-. 1/3rd amount needs to be deducted towards personal expenses and so there is monthly loss of Rs.6,860/- to the claimants. The total loss of dependency comes to Rs.12,34,800/- (6860 x 12 x 15). This Court holds that amount of Rs.50,000/- needs to be given under the head of loss of consortium to the widow and amount of Rs.50,000/- needs to be given to the minor issues and the mother of the deceased under the head of loss of love and affection. Amount of Rs.15,000/- needs to be given under the head of funeral expenses. Thus, the total amount of compensation comes to Rs.13,49,800/-. Though the claim was made for Rs. Ten lakh, calculation made in petition shows that it was restricted to Rs. Ten lakh and the entitlement was shown as Rs.19.10 lakh. In any case it is the duty of the Tribunal to give just compensation. This Court holds that the judgment and award of the Tribunal needs to be modified to enhance the compensation. Nothing can be

deducted due to circumstance that widow got appointment on compassionate ground. In the result following order is made :-

7) The appeal is allowed. Judgment and award of the Tribunal is modified to make the total compensation as of Rs.13,49,800/- (Rupees Thirteen Lakh Forty Nine Thousand and Eight Hundred only). This amount is inclusive the amount which must have been paid on the principle of no fault. Interest at the rate of 9% is awarded on this amount from the date of petition till realization of the amount.

8) Disbursement of the amount is to be made as follows :-

(A) From the total amount of compensation, Rs. One lakh is awarded to respondent No.6, mother of the deceased. Interest on this amount also to be paid to her. The amount is to be given to her by account payee cheque.

(B) Remaining amount of compensation is to be equally disbursed amongst claimant Nos.1 to 5. The amount of claimant No.1 is to be paid to her with interest by account payee cheque. Remaining amount of claimant Nos.2 to 5 is to be kept in fixed deposit in any nationalized bank as per the choice of the mother of the issues initially for a period of three years and thereafter F.D. to be made renewable till the issues attain majority. The mother of the issues is to act as guardian of the issues and she will be entitled to receive quarterly interest on this amount. Deficit courts fees is to be recovered from the claimants. Award to be prepared accordingly.

Sd/-  
**(T.V. NALAWADE, J. )**

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