

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 179 OF 2015

SHEETAL JIVAN KHIRE
VERSUS
CHAMPABAI GANESH KHIRE AND OTHERS

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Advocate for Appellant Mr. Gore Ravindra Vitthal
Advocate for Respondents 1 to 3: Mr. P.C. Mayure
Advocate for Respondent No.5: Mr. V.R. Mundada

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CORAM : V. K. JADHAV, J.
DATED : 9th JUNE, 2016

PER COURT:-

1. By consent of the parties, heard finally.
2. Being aggrieved by the judgment and award dated 23.9.2014 passed by the learned Member, M.A.C.T. Aurangabad in M.A.C.P. No. 498 of 2013, the appellant-original claimant No.1, preferred this appeal to the extent of apportionment of compensation, *interse*, as directed by the Tribunal in clause No.3 of operative part of the impugned judgment and order, which reads thus, "on depositing that amount alongwith interest, it equally be distributed between claimants Nos. 1 to 4".
3. Learned counsel for the appellant-original claimant No.1 submits that claimant No.1 become widow at the age of 20 years and 9 days, after her marriage. She was housewife at the time of accidental death of her husband and she lost her companion at her young age. Though

she got re-married after death of her first husband, considering her young age, the Tribunal ought to have paid her the compensation amount at least 50% of the total amount of compensation.

4. Learned counsel for respondents-original claimant Nos. 2 to 4 submits that the claimant No.3 is disabled person and his disability is certified as 80% on account of amputation of his lower 1/3rd left leg. Learned counsel, on instructions, submits that the appellant-claimant No.1 got remarried with a person who is serving as Talathi and getting salaried income. Learned counsel, on instructions, further submits that even appellant-claimant No.1 is also serving as teacher on monthly salary of Rs.15,000/- at present. Even though the claimant No.4 is now got married, still it cannot be ignored that respondent-original claimant Nos. 2 and 3 incurred expenses for her marriage. Learned counsel submits that deceased Jivan was the only son of respondent-claimant Nos. 2 and 3 and therefore, the Tribunal has rightly apportioned the compensation, *interse*, amongst the claimants equally.

5. Considering the above submissions and the fact that at present appellant-claimant No.1 got re-married and also serving as teacher, she is no more entirely depending upon the compensation amount as such. On the contrary, respondent - original claimant Nos. 2 and 3 are entirely dependent upon compensation amount awarded by the Tribunal on account of accidental death of their only son. It further appears that

respondent-original claimant No.3 is not able to do any work on account of disablement in the form of amputation of his leg. In view of this, the ends of justice would be met if the respondents- original claimant Nos. 2 and 3 are directed to pay Rs.1,00,000/- more to the appellant-original claimant No.1 out of the amount of their share. Both the counsel, on instructions, submit that the amount of Rs.50,000/- is kept in F.D.R. before the Tribunal in the name of respondent-claimant Nos. 2 and 3. In view of the above, learned Member of the Tribunal is hereby directed to pay that amount of Rs.50,000/- to appellant-claimant No.1 and respondent-original claimant Nos. 2 and 3 are directed to pay remaining amount of Rs.50,000/- to the appellant-original claimant No.1, within one month from today.

6. In view of the above, appeal is disposed of. In the circumstances, there shall be no order as to costs.

(V. K. JADHAV, J.)

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