

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1032 OF 2008

- 1) Bhagirathibai alias Kaweribai
w/o Late Ganesh Dharmadhikari
Age: 75 Yrs., occu. Nil
R/o Paithan, Tq.Paithan,
District Aurangabad.
- 2) Laxmi w/o Ravindra Dharmadhikari
Age:28 Yrs., occ.nil.
R/o as above.
- 3) Yogesh s/o late Ravindra Dharmadhikari
Age:minor, occu. Student.
- 4) Yogini D/o late Ravindra Dharmadhikari
Age:minor, occu. Student.
- 5) Yuoraj s/o late Ravindra Dharmadhikari
Age:minor, occu. Student.

Nos. 2 to 4 Minors, U/g of their
Natural mother – Smt. Laxmibai
w/o late Ravindra Dharmadhikari
Age: Major, ccu. Household
r/o Paithan, Tq.Paithan
Dist. Aurangabad.

= **APPELLANT/S**
(orig. petitioners)

VERSUS

- 1) Dattatraya s/o Jaysingrao Shinde

(Appeal stood dismissed as against
Resp.No.1 vide order dt.26.4.2005)
- 2) National Insurance Company Ltd.
Through its Branch Manager
at Kolhapur, Tq. And Dist.
Kolhapur.
- 3) Sadashiv s/o Mahadeo Shinde,
age: Major, occu. Business
R/o 894,E-Ward, Shahupuri,

at Kolhapur, Tq.Kolhapur,
Dist.Kolhapur.

- 4) M.S.R.T.C. Ltd. Thru its
Regional Manager, at Aurangabad
Head office at Bombay Central,
Bombay, through its
Managing Director. = **RESPONDENT/S**

Mr.MG Deokate, Adv. for Appellants;
Mr.RC Bora, Adv. h/for Mr. PP Bafna, Adv.for
Respondent No.2;
Respondent No.3 served.

CORAM : P.R.BORA, J.

DATE : 17th July, 2017.

ORAL JUDGMENT:

1) Heard. Original claimants have filed the present appeal seeking enhancement in the amount of compensation awarded by Motor Accident Claims Tribunal at Aurangabad (for short, the Tribunal) in MACP No.87/1991 decided on 30th December, 1999.

2) The present appellants had filed the aforesaid claim petition seeking compensation on account of the death of one Ravindra Dharmadhikari, alleging the same to have been caused in a vehicular accident having involvement

of a truck bearing registration No.MXL-5036 owned by Respondent No.4 and insured with present Respondent No.2 – insurance company. The deceased was serving as a conductor in ST corporation. At the relevant time, since there was a traffic jam, deceased Ravindra had got down from the ST bus and was managing the traffic and while doing so, he was dashed by the offending truck and in the accident so happened, he ultimately suffered the death. On the date of the accident, age of the deceased was 30 years. The claimants had claimed the compensation of Rs.7,50,000/-. The Tribunal, however, after having considered the entire evidence on record, held the appellants – claimants entitled for the total compensation of Rs.2,82,060. The appellants had also availed the benefit under the Workmen's Compensation Act and were granted the compensation of Rs.82,000/-.

3) Learned Counsel appearing for the appellants – claimants submitted that the Tribunal has erred in applying multiplier of 15.

The learned Counsel submitted that having regard to the age of the deceased, the appropriate multiplier would have been of 18. The learned Counsel submitted that the compensation so awarded by the Tribunal, therefore, needs to be adequately enhanced. The learned Counsel further submitted that the Tribunal has not awarded just and proper compensation towards non-pecuniary damages and to that extent also, enhancement is required.

4) Learned Counsel appearing for the respondents have supported the impugned Judgment and Award. The learned Counsel submitted that the Tribunal has considered future prospects of the deceased also and by giving 100% increase in the amount of salary, the amount of compensation has been determined by the Tribunal. The learned Counsel, therefore, prayed for dismissal of the appeal.

5) I have carefully read the impugned Judgment and Award and the reasoning given by the

learned Tribunal. It is revealed that though proved salary of deceased Ravindra was 1,032/- only, the Tribunal has determined the amount of compensation by holding the salary of the deceased to the tune of Rs.2,500/-. While doing so, the Tribunal has relied upon the judgment of the Hon'ble Apex court in the case of Kerala SRTC. Susamma Thomas – (1994) 2 SCC 176. The judgment relying on which future prospects of the deceased were considered by the Tribunal provides multiplier of 14 for the age group of 30. However, the Tribunal applied the multiplier of 15 and has determined the amount of compensation. It does not, therefore, appear to me that any interference is warranted or any enhancement is necessary in the amount of compensation under the said head determined by the Tribunal.

6) In so far as non-pecuniary damages are concerned, the Tribunal has awarded adequate sums in tune with the judgments prevailing at the relevant time. I, therefore, do not see any

reason for causing any interference in the
impugned Judgment and Award .

7) In the result, the following order, -

ORDER

i) The appeal is dismissed,
however, without any order as to costs;

ii) Pending civil application, if
any, stands disposed of.

(P . R . BORA)
JUDGE

bdv/