

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

8 FIRST APPEAL NO. 4390 OF 2016

RAMESH EKNATH GAWADE
VERSUS
SANJAY DAYARAM LOKHANDE AND OTHERS

...

Advocate for Appellant : Mr. C. K. Shinde.

Advocate for Respondent No.1 : Mr. D. B. Shinde.

Advocate for Respondent No.2 : Mr. A. G. Kanade.

...

CORAM : **V. K. JADHAV, J.**

DATE : 13th April, 2017.

ORDER:

. Heard finally with consent at admission stage.

2 Being aggrieved by the judgment and award passed by the learned Member of the Motor Accident Claims Tribunal, Jalgaon dated 7th January, 2008 in MACP No.135 of 2000, the original Claimant has preferred this appeal to the extent of quantum of compensation.

3 The learned counsel for Appellant / original Claimant submits that deceased Kasturabai met with an accidental death at the age of 60 years and as such, in view of the ratio laid down by the Supreme Court in the case of **Sarla Verma (Smt) and others**

Vs. Delhi Transport Corporation and another, reported in, **(2009)**

6 Supreme Court Cases 121, the Tribunal ought to have applied the multiplier 9 instead of 5. The learned counsel further submits that the Tribunal has awarded meager amount for loss of estate and funeral expenses.

4 The learned counsel for the Respondent / Insurer submits that the Tribunal has awarded just and reasonable compensation. No interference is required.

5 I have also heard the learned counsel for Respondent / owner.

6 In view of the ratio laid down by the Supreme Court in the case of *Sarla Verma (Smt) and others Vs. Delhi Transport Corporation and another* (supra), the Tribunal ought to have applied the multiplier 9 instead of 5 in consonance with the age of deceased, who was 60 years of age at the time of her accidental death. Furthermore, the learned Member of the Tribunal has awarded only Rs.2,000/- for loss of estate and Rs.2,500/- for funeral expenses. The Appellant / Claimant is entitled for Rs.5,000/- for loss of estate and Rs.10,000/- towards funeral expenses.

7 In view of the above, the judgment and award passed by the Tribunal requires modification to that extent. Hence, the following order:

ORDER

- I. The appeal, is hereby partly allowed with proportionate costs.
- II. The judgment and award passed by the learned Member of the Motor Accident Claims Tribunal, Jalgaon dated 7th January, 2008 in MACP No.135 of 2000, is hereby modified in the following manner:

“Respondent Nos.1 and 2 are hereby directed jointly and severally to pay to Petitioner No.2 Ramesh Eknath Gawade, compensation of Rs.1,33,000/- (Rupees One Lac and Thirty-Three Thousand Only) alongwith interest at the rate of 6% per annum from the date of petition till realization of the entire amount.”

- III. Rest of the judgment and award stands confirmed.

- IV. Award be drawn up as per the above modification.
- V. Needless to say that if any amount is deposited in terms of the judgment and award passed by the Tribunal, the same shall be the part of the modified award.
- VI. Appeal is accordingly disposed of.

[V. K. JADHAV, J.]

ndm