

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

FIRST APPEAL NO. 725 OF 2002

1. Sushila Ramnath Bamble,
Age 25 years,
2. Vandana Ramnath Bamble,
Age 9 years, minor
3. Vijay Ramnath Bamble,
Age 5 years, minor
4. Prakash Ramnath Bamble,
Age 4 years, minor

Petitioner Nos.2 to 4 are minors and
under guardianship of Petitioner No.1
Sushila Ramnath Bamble.

All R/o Kuntawali Ambarnath,
Gaodev Road, Near Hanuman Mandir
Sewalingnagar, Ambarnath.

... APPELLANTS
(Original Petitioner Nos.1 to 4)

VERSUS

- 1) Mohan Travels,
Mrs. Nandini M. Ghatge,
Age Adult, Occ. Business,
R/o 517 E. P.B.Road, Kolhapur.
- 2) Branch Manager,
The New India Assurance Co. Limited,
2420, Gen. Thimayya Road,
Gulmohar Apartment, Pune – 411 001.

- 3) Shardabai Kondaji Bamble (R.Nos.3 & 4 dismissed vide
Age 50 years, Court's order dated 18-11-03)
- 4 Kondaji Bhoraji Bamle,

Age 60 years,
Both R/o Kuntalwali Ambarnath,
Gaodev Road, Near Hanuman Mandir
Sewalingnagar, Ambarnath.

... **RESPONDENTS**

(Respdtd.Nos.1 & 2 Orig. Opponent Nos.1 & 2 and
Respdtd.Nos.3 & 4 Orig. Petitioners Nos.5 & 6)

...

Mrs. Rashmi Kulkarni, h/f Mr. S. D. Kulkarni, Advocate for Appellants.
Mr. S. G. Chapalgaonkar, Advocate for Respondent No.2.

...

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

DATE : 04th May, 2017.

ORAL JUDGMENT:

. Being aggrieved by the judgment and award passed by the learned Member of the Motor Accident Claims Tribunal, Ahmednagar dated 17th July, 2001 in MACP No.688 of 1993, the original Claimants have preferred this appeal to the extent of quantum of compensation.

2 The learned counsel for the Appellants / original Claimants submits that the learned Member of the Tribunal has not considered the future prospects of deceased Ramnath though he was getting salaried income. Undisputedly, deceased Ramnath was serving as 'B' grade labour in Ordinance Factory, Ambarnath. The

learned counsel submits that even though there are six persons depending upon the income of deceased Ramnath, the Tribunal has deducted 1/3rd of the amount towards personal and living expenses of deceased Ramnath from his income instead of 1/4th of the permissible deductions. The learned counsel submits that the Tribunal has also awarded meager amount under the non-pecuniary heads such as loss of consortium etc. Even the Tribunal has not awarded any compensation for loss of love and affection, loss of estate and funeral expenses.

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

4 It appears from the evidence and the impugned judgment and award passed by the Tribunal that deceased Ramnath was working as 'B' grade labour in Ordinance Factory, Ambarnath. His pay bill was produced on record and the same is marked as Exhibit 64. In the month of March 1993, deceased Ramnath had received the net salary to the extent of Rs.4,062/-. It is a part of record that deceased Ramnath was 35 years and 11 months old at the time of his

accidental death. The learned Member of the Tribunal ought to have added 50% amount of his salaried income towards future prospects. It appears that there are in all six Claimants, who were depending upon the income of deceased Ramnath. 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 deducted 1/4th of the amount from the income of deceased Ramnath towards his personal and living expenses instead of 1/3rd. The learned Member of the Tribunal has awarded only Rs.10,000/- towards loss of consortium. The Tribunal ought to have awarded Rs.25,000/- towards loss of consortium for Appellant No.1 / Claimant No.1. Even though there are three minor Claimants, the Tribunal has not awarded any compensation for loss of love and affection. Appellant Nos.2 to 4 / Claimant Nos.2 to 4 are thus, entitled for an amount of Rs.10,000/- each for loss of love and affection. The learned Member of the Tribunal has not awarded any compensation for loss of estate and funeral expenses. The Claimants are entitled for an amount of Rs.5,000/- for loss of estate and Rs.10,000/- for funeral expenses. Thus, the break up of compensation under the various heads, which

can be broadly categorized is as under:

Sr. No	Particulars of the head	Amount in Rupees
1)	Towards loss of future income / dependency (Rs.54,837/- [after deducting 1/4 th of the amount towards personal and living expenses] x 16) (as against Rs.5,18,400/- awarded by the Tribunal)	Rs.8,77,392/-
2)	Towards loss of consortium (as against Rs.10,000/- awarded by the Tribunal)	Rs.25,000/-
3)	Towards loss of love and affection (Rs.10,000/- each for minor Claimant Nos.2 to 4)	Rs.30,000/-
4)	Towards funeral expenses	Rs.10,000/-
5)	Towards loss of estate	Rs.5,000/-
	Total =	Rs.9,47,392/-

5 The Appellants / Claimants are entitled for the compensation of Rs.9,47,392/- as worked out hereinbefore. The judgment and award passed by the Tribunal needs modification. 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, Ahmednagar dated 17th July, 2001 in MACP No.688

of 1993, is hereby modified in the following manner:

“Opponents do pay to the Applicants jointly and severally an amount of Rs.9,47,392/- (Rupees Nine Lacs Forty-Seven Thousand Three-Hundred and Ninety-Two Only) with interest at the rate of 9% per annum from the date of petition till the date of payment.”

- 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 paid as per the judgment and award passed by the Tribunal, the same shall be the part of the modified award.
- VI. The appeal is accordingly disposed of.

[V. K. JADHAV, J.]