

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

FIRST APPEAL NO. 2527 OF 2016

SHIVNANDA SHIVSHANKAR BODHANE AND OTHERS
VERSUS
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION,
THROUGH ITS DIVISIONAL CONTROLLER,
DIVISIONAL OFFICE, WORKSHOP, NANDED

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Advocate for Appellants : Mr. Ravindra B. Narvade Patil
Advocate for Respondent : Mrs. Ranjana D. Reddy.

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CORAM : **V. K. JADHAV, J.**
DATE : 30th January, 2017.

ORDER:

. Heard finally with consent at admission stage.

2 Being aggrieved by the judgment and award passed by the learned Motor Accident Claims Tribunal, Nanded dated 11th February, 2016 in MACP No.462 of 2013, the original Claimants have preferred this first appeal to the extent of quantum.

3 Accident took place on 30th July, 2013. On that day at about 20:45 hours on Mukramabad to Udgir road near Mukramabad Bus Stand, deceased Shivshankar met with an accidental death on account of rash and negligent driving of the S.T. Bus bearing registration No.MH-14-BT-0035. The legal representatives of

deceased Shivshankar preferred MACP No.462 of 2013 before the Motor Accident Claims Tribunal, Nanded for grant of compensation under the various heads. The learned Member of the Tribunal vide its impugned judgment and award, partly allowed the claim petition and thereby directed the Respondent / MSRTC to pay Rs.5,18,000/- inclusive of the amount of NFL with interest @ 7.5% per annum from the date of petition till its realization. Being aggrieved by the same, the original Claimants preferred this appeal to the extent of quantum.

4 The learned counsel for Appellants / Claimants submits that the learned Member of the Tribunal has erroneously considered the notional income of deceased Shivshankar at Rs.3,000/- per month instead of Rs.4,500/- per month. Deceased Shivshankar was doing labour work and considering the daily wages of a labour in the year 2013, the Tribunal ought to have considered the notional income of deceased Shivshankar at Rs.4,500/- per month. The learned counsel submits that the Tribunal has committed error in applying the multiplier 17 instead of 18. Deceased Shivshankar died at the age of 26 years and thus, the relevant multiplier would be 18 instead of 17. The learned counsel submits that the Tribunal

has also committed error while granting interest @ 7.5% per annum instead of 12% per annum.

5 The learned counsel for Respondent / MSRTC submits that the Tribunal has rightly considered the notional income of deceased Shivshankar at Res.3,000/- per month since no oral or documentary evidence led to substantiate the income of deceased Shivshankar as claimed by the Appellants / Claimants. The learned counsel submits that there is no age proof of deceased Shivshankar and considering the age of deceased Shivshankar as mentioned in the postmortem report i.e. 26 years, the learned Member of the Tribunal has correctly applied the multiplier 17. The learned counsel submits that the Tribunal has rightly awarded interest @ 7.5% per annum. No interference is required.

6 It is true that there is no income proof of deceased Shivshankar. However, he was doing the agricultural labour work. It is claimed that he was getting Rs.6,000/- per month. The learned Member of the Tribunal has discarded the evidence of Appellants / Claimants on the ground that there is no documentary proof about the work and the earnings of deceased Shivshankar. However, it is

difficult for the Appellants / Claimants to procure the documentary evidence in respect of the agricultural labour work of deceased Shivshankar. However, considering the prevailing rate of wages prescribed for the agricultural labours, it would be just and appropriate if the notional income of deceased Shivshankar is considered at Rs.4,500/- per month. The learned Member of the Tribunal has rightly deducted 1/3rd of the amount towards personal and living expenses of deceased Shivshankar. The learned Member of the Tribunal has rightly awarded the compensation under the non-pecuniary heads. There is no age proof placed on record. The age of deceased Shivshankar is mentioned as 26 years in the postmortem report. Thus, for a person falling in between the age group of 26 to 30, the relevant multiplier would be 17. The learned Member of the Tribunal has therefore, rightly applied the multiplier 17. No interference is required. So far as rate of interest is concerned, the Tribunal ought to have awarded the interest @ 9% per annum instead of 7.5% per annum. The learned counsel for Appellants / Claimants has failed to substantiate his submissions that the Claimants are entitled for the compensation with interest @ 12% per annum. In view of the above, the

impugned judgment and award passed by the Motor Accident Claims Tribunal, Nanded requires modification.

7 In view of the above discussion, the Claimants are entitled for the total compensation of Rs.7,22,000/-. Hence, the following order:

ORDER

- I. The appeal is hereby partly allowed with proportionate costs.
- II. The judgment and award passed by the Motor Accident Claims Tribunal, Nanded dated 11th February, 2016 in MACP No.462 of 2013, is hereby modified in the following manner:

“The Respondent do pay Rs.7,22,000/- (Rupees Seven Lacs and Twenty-Two Thousand only) inclusive of the amount received towards an interim (NFL) compensation with interest @ 9% per annum from the date of petition till its realization.”

- III. Rest of the judgment and award stands confirmed.
- IV. Award be drawn up as per the above modification.
- V. Appeal is accordingly disposed of.

[V. K. JADHAV, J.]

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