

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2053/2012

- 1) Shri Murlidhar Parbat Patil
Age: 53 Yrs., occu. Agril.
- 2) Smt.Devkabai Murlidhar Patil
Age: 43 Yrs., occu. Household

Both R/o Mondhale (Pra)
Tq. Parola, Dist. Jalgaon. = **APPELLANT/S**
(orig. Claimants)

VERSUS

- 1) Devendra Chawla s/o Narendrasing
Chawla, Age: Adult r/o Transport
r/o Fafadhi Chowk, Jail Road,
Raipur (Chhatisgad)
(Owner of Tru No.CG-04/G-5746)

- 2) National Insurance Company
Ltd. Through the Manager,
National Insurance Company
Ltd. Dhule, Tq. And Dist.
Dhule = **RESPONDENTS**
**(No.1 & 2 orig.
opponents)**

Mr. NL Jadhav, Advocate for Appellants;
Respondent No.1 duly served;
Mr.SS Chapalgaonkar, Adv. for Respondent No.2.

CORAM : P.R.BORA, J.**DATE : 13th July, 2017.****ORAL JUDGMENT:**

1) Heard finally by consent of the learned Counsel appearing for the parties.

2) The claimants in the MACP No.2/2006 decided by the Motor Accident Claims Tribunal at Amalner, (for short the Tribunal) on 7th February, 2010, have filed the present appeal seeking enhancement in the amount of compensation as awarded by the Tribunal.

3) The appellants had filed the aforesaid claim petition seeking compensation on account of death of their son viz. Gorakh, who died at the age of 21 in a vehicular accident happened on 10th December, 2005 having involvement of Minidoor bearing registration No.MH-19/AE-0645, owned by present Respondent No.1 and insured with present Respondent No.2.

4) It was the contention of the appellants before the Tribunal that, they lost their son at the midst of their life, who could have been their sole support in their old age. They had, therefore, claimed compensation amounting to Rs.5,00,000/- from the owner and insurer of the Minidoor.

5) Admittedly, on the date of the accident, deceased Gorakh was not employed, but was in search of employment and was likely to get employment, as has been pleaded by the appellants. The learned Tribunal, after having assessed the oral and documentary evidence, awarded the compensation of Rs.3,16,500/- inclusive of NFL compensation to the appellants from the owner and insurer of the said Minidoor. Dissatisfied by the amount of compensation so awarded, the appellants have preferred the present appeal.

6) Shri Jadhav, learned Counsel appearing

for the appellants submitted that the Tribunal has erred in applying multiplier of 13 based on the age of the claimants; whereas multiplier based on the age of the deceased must have been applied while determining the amount of compensation. The learned Counsel further submitted that income of the deceased has also been held by the Tribunal on much lower side though sufficient evidence was adduced bringing on record the prospects of deceased Gorakh. The learned Counsel further submitted that the Tribunal has also awarded a very unjust and inadequate amount towards non-pecuniary damages. The learned Counsel, therefore, prayed for allowing the appeal and to enhance the amount of compensation adequately.

7) Shri Chapalgaonkar, learned Counsel appearing for Respondent No.2-insurance company, has supported the impugned judgment. The learned Counsel submitted that a well-reasoned order has been passed by the learned Tribunal and no

interference is warranted in the amount of compensation so awarded by the Tribunal.

8) I have carefully considered the submissions advanced by learned Counsel appearing for the appellants and learned Counsel appearing for the Respondent - insurance company. Though it is sought to be canvassed that the multiplier 13 was wrongly applied by the Tribunal, having regard to the fact that deceased was bachelor and the parents had claimed the compensation, it does not appear to me that the Tribunal has committed any error in applying the multiplier based on the ages of the parents.

. The another objection raised by the appellants as about non-consideration of the future prospects of the deceased by the Tribunal while determining the amount of compensation is also liable to be rejected. The appellants did not adduce any evidence showing the future prospects of the deceased. No error therefore said to have been committed by the learned

Tribunal.

9) In so far as grant of non-pecuniary damages is concerned, some indulgence is certainly warranted. The Tribunal has awarded a sum of Rs.2,000/- towards funeral expenses, whereas a sum of Rs.2,500/- towards loss of estate. The compensation so awarded is wholly unjust and inadequate. Having regard to the guidelines laid down by the Hon'ble Apex Court in the series of judgments, I deem it appropriate to enhance the amount of compensation as awarded by the Tribunal towards non-pecuniary damages by Rs.1,00,000/-. The appellants are thus held entitled to the total compensation of Rs.4,16,500/- inclusive of NFL compensation. It appears to me that in the fact and circumstances of the case, this will be the just and fair compensation payable to the appellants/claimants.

10) In the result, the following order, -

ORDER

i) The amount of compensation as

awarded by the Tribunal is enhanced by Rs.1,00,000/- and the appellants are held entitled to the total compensation of Rs.4,16,500/- jointly and severally from the respondents;

ii) The respondents shall pay to the appellants the enhanced amount of compensation with interest thereon @ 9% p.a. From the date of filing of the claim petition till its realization;

iii) The Award be modified accordingly;

iv) The Appeal stands allowed in the aforesaid terms. Pending Civil Application, if any, stands disposed of.

(P.R.BORA)
JUDGE

bdv/