

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

FIRST APPEAL NO. 1281 OF 2016

ASHWINI MAHESH KALGE
VERSUS
PADMINIBAI ROHIDAS KALGE AND OTHERS

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Advocate for Appellant : Mr. Manoj D. Shinde.

Advocate for Respondent No.1 : Mr. A. N. Kakade.

Advocate for Respondent No.4 : Mr. S. M. Kshirsagar, h/f Mr. S. R. Bagal

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

DATE : 13th February, 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, Nilanga dated 9th December, 2014 in MACP No.27 of 2009, the original Claimant No.1 has preferred this appeal to the extent of apportionment of compensation between herself and Respondent No.1. Appellant / original Claimant No.1 is the widow of deceased Mahesh; whereas Respondent No.1 Padminibai is the mother of deceased Mahesh.

3 The learned counsel for Appellant submits that the Appellant / original Claimant No.1 was 21 years of age when her

husband met with an accidental death. Deceased Mahesh was not the only son of Respondent / Padminibai and she has another major son. The learned counsel submits that the Appellant / original Claimant No.1 is entitled to the extent of 70% in the compensation.

4 The learned counsel for Respondent No.1 / original Claimant No.2 submits that the Appellant / Claimant No.1 now got married and she is staying with her husband. The Respondent / mother has no independent source of income and deceased Mahesh was taking care of her. The learned Member of the Tribunal has therefore, rightly apportioned the compensation between them. No interference is required.

5 On careful perusal of the judgment and award, it appears that the learned Member of the Tribunal has considered the loss of future income to the tune of Rs.4,08,000/- and also awarded Rs.25,000/- for funeral expenses. So far as the amount of Rs.4,08,000/- towards future loss of income and Rs.25,000/- towards funeral expenses, the Appellant / original Claimant No.1 and Respondent / original Claimant No.2 are entitled the amount to the extent of equal share. So far as the amount of Rs.1,00,000/-

awarded for the loss of consortium, the Appellant / Claimant No.1 is entitled to the same alone. In view of the above discussion, clause (3) of the operative part of the order passed by the learned Member of the Tribunal stands modified. Hence, the following order:

ORDER

- I. The appeal is hereby partly allowed. No costs.
- II. Clause (3) of the operative part of the order passed by the learned Member of the Motor Accident Claims Tribunal, Nilanga, is hereby modified in the following manner:

“The amount of compensation shall be apportioned between Claimant No.1 and Claimant No.2 in the following manner:

Claimant No.1 Ashwini Mahesh Kalge is entitled for an amount of Rs.3,16,500/- alongwith accrued interest, if any, on that amount; whereas Claimant No.2 Padminibai Rohidas Kalge is entitled for an amount of Rs.2,16,500/- alongwith accrued interest, if any, on that 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 the remaining amount shall be paid to the parties as per the modified award.
- VI. The appeal is accordingly disposed of.
- VII. Pending civil application stands disposed of.

[V. K. JADHAV, J.]

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