IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1583 OF 2016

Mrs.Pushpa A. Vednere and ors. .. Appellants
vs.
Mr. Shankar M. More and ors. .. Respondents

Mr. Vishal Kanade a/w. B.G. Ligade i/b Drupad Patil for the Appellants.
Mr. Sachin Gite for Respondent No.2.
Mr. Ketan Joshi for Respondent No.3.
Ms S.S. Dwivedi for Respondent No.4.

CORAM : M. S. SONAK, J.
DATE : 9 MARCH 2017.

P.C. :-

1] Heard Mr. Vishal Kanade, learned counsel for the appellants, Mr. Ketan Joshi, learned counsel for respondent No.3-Insurance Company, Mr. Sachin Gite, learned counsel for respondent No.2 and Ms S.S. Dwivedi, learned counsel for respondent No.4.

2] The basic facts have been set out in the common judgment and order passed today in First Appeal No. 1509 of 2012 and two connected matters.

3] On 28 December 1993, Arun Vadnere, a driver was driving vehicle bearing registration No.BLN-2312, which met with an accident with a truck bearing MTS No. 6893 which came on the wrong side. The truck was owned by respondent No.2 and insured by respondent No.3-Insurance Company. On account of the accident, Arun, the driver as well as Rajeev Deshmukh unfortunately met with fatal injuries. The claimants, who are the widow and children of

Arun instituted claim petition bearing Claim Petition No. 950 of 2000, which has since been disposed of by the impugned judgment and award dated 13 May 2011. The Motor Accident Claims Tribunal (MACT), Nashik has awarded compensation of Rs.2,75,000/- together with interest at the rate of 7.5% per annum from 1 January 2009 till the realization of the amount.

4] Mr. Kanade, learned counsel for the appellants, submits that the award is totally inadequate. He submits that there is no addition towards future prospects and further the award towards loss of consortium, loss of love and affection, loss of estate and funeral expenses is totally inadequate. Mr. Kanade also submits that there is no justification for denying the interest from the date of claim petition, which is 27 June 1994. He relies upon the decision of the Hon'ble Supreme Court in ***Sarla Verma (Smt) & ors. vs. Delhi Transport Corporation and anr. - (2009) 6 SCC 121*** and ***Rajesh Vs. Rajbir Singh – (2013) (6) Scale 563.***

5] Mr. Joshi, learned counsel for respondent No.3-Insurance Company, submits that the MACT has determined just compensation for the accident which took place in the year 1993 and the determination, if, taken into consideration by the standard of 1993 is fair and proper.

6] Mr. Gite, learned counsel for respondent No.2, submits that he adopts the submissions of Mr. Joshi, learned counsel for respondent No.3. However, he submits that the truck was insured with the Insurance Company and therefore, respondent No.3 is liable to indemnify respondent No.2. Ms S.S. Dwivedi, learned counsel for respondent No.4, submits that since there was no claim made against respondent No.4 in the claim petition or for that matter in this appeal, she has no further submissions to make in this appeal.

7] The rival contentions now fall for my determination.

8] Insofar as the income of Arun Vadnere is concerned, there is no dispute that the same was Rs.2500/- per month. This means that his annual income was Rs.30,000/-. The amount of Rs.10,000/- is required to be deducted towards his personal expenses. However, addition to the extent of 1/3rd is required to be made to such annual income on account of future prospects taking into consideration that Arun was 41 years age at the time of his demise. This consistent with the position laid down by the Hon'ble Supreme Court in ***Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors. - (2015) 6 SCC 347*** and ***Rajesh vs. Rajbir Singh – 2013(6) Scale 563***. This means that the annual dependency comes to Rs.27,000/-. In this case, the MACT has applied incorrect multiplier of 12. As per the law laid down by the Hon'ble Supreme Court in any case *Sarla Verma (supra)*, the correct multiplier in this case should be 14. This means that the compensation towards dependency comes to Rs.3,78,000/-.

9] In this case, appellant No.1 Pushpa is entitled to Rs.1,00,000/- towards loss of consortium. Similarly, three children are entitled to compensation of Rs.1,00,000/- each towards loss of love and affection on account of demise of their father Arun. The amount of Rs.25,000/- is due towards funeral expenses. Further, considering the facts and circumstances of the present, the compensation of at least Rs.2,00,000/- is due and payable on account of loss of estate. It is to be noted that Arun was 41 years of age at the time of his demise and the family has certainly suffered tremendously. This means that the total compensation due and payable comes to Rs.10,03,000/-.

10] There is no reason to deny interest from the date of filing of the claim petition, i.e., 27 June 1994. There is nothing on record to indicate that the claimants were in any manner responsible for the delay in disposal of the claim petition. Therefore, it is directed that the interest at the rate of 7.5% on enhanced amount of Rs.10,03,000/- shall be paid from 27 June 1994 till the date of realisation/payment of the amount.

11] The appeal is allowed. The compensation amount is enhanced to Rs.10,03,000/-. The same shall bear interest at the rate of 7.5% from the date of filing of claim petition, i.e., 27 June 1994 till the date of realisation/payment of the amount. Needless to add that the respondents shall be entitled to credit for the amounts already paid to the claimants in pursuance of the impugned award. By now, since, appellant Nos.2 to 4 have attained majority, the direction for deposits/investments need not continue. There shall however be no order as to costs.

(M. S. SONAK, J.)

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