IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.284 OF 2010
WITH
CIVIL APPLICATION NO.2919 OF 2014

Mrs.Krupa Rakesh Rege & Ors. ... Appellants

Vs.

Rajaram Ganpat Garade & Ors. … Respondents

Mr.R.S. Datar for the Appellants
Mr.H.G. Misar, for Respondent No.3

CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: SEPTEMBER 6, 2017

P.C. :

1. This appeal is filed for enhancement of the compensation awarded by judgment and award dated 10.4.2008 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai in MACP No.2802 of 2001.

2. The present appellants are the widow and parents of the deceased Rakesh, who died in an accident of his Maruti Zen bearing No.MH-04-Y-5124 and a motor tanker bearing No.MH-12-Q-2146 insured with opponent No.2, i.e., respondent No.1 Insurer. The accident took place on 20.10.2001. It was a head on collision

between the Maruti Zen and the tanker and Rakesh who was sitting on the rear side of his vehicle succumbed to the injuries. The claimants filed Claim Application under section 166 of the Motor Vehicles Act for Rs.1,54,55,000/-. However, it was allowed for Rs.34,59,030/- and hence, this appeal by the Claimants.

3. The Insurance Company has not challenged the impugned judgemnt and award and hence, the point for enhancement, the evidence and the points which were not considered or not properly appreciated by the Motor Accident Claims Tribunal, while granting lesser compensation can be summed up.

4. The point of determination is whether the compensation of Rs.34,59,030/- awarded by the impugned judgment and award dated 10.4.2008 is less and the claimants are entitled to enhanced compensation? The Answer is Yes.

5. Learned Counsel for the appellants has submitted that the learned Member, Motor Accident Claims Tribunal, Mumbai, has erred in adopting the multiplier at 9 instead of 16. The deceased was 31 years old when the accident took place. The learned Member, Motor Accident Claims Tribunal, ought to have taken into

account the future prospects of the deceased, who was an engineer and holding high position at the age of 31 in the company and was drawing a handsome salary. He further submitted that the learned Member has failed to grant compensation under the head of Consortium, Loss of Estate. The compensation awarded for funeral is not sufficient.

6. The learned Counsel for the Insurance Company while opposing this appeal has supported the impugned judgment and award of the Tribunal. He has submitted that the learned Judge rightly fixed the annual income of the deceased as Rs.3,87,670/-. The amount granted for Loss of Life and Affection, Funeral is proper. He further argued that the issue of giving compensation for funeral prospects is pending before the larger Bench of the Supreme Court and hence, the learned Member is justified in not granting the future prospects.

7. Read the impugned judgement and award, the evidence and other documents placed before the Court. Overall, the learned Member by giving proper reasoning has discussed the evidence on the pint of fixing the annual income of the deceased, which finding need not be disturbed. However, the learned Member has

erred in adopting the multiplier at 9 instead of 16. The deceased was 31 yeas old when he expired. Thus, as per the schedule mentioned in the judgment of the Supreme Court in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation**[1]**,** the multiplier is to be increased and fixed at 16. Further, the ratio on the issue of granting compensation towards future prospects in the cases of **Rajesh & Others vs. Rajbir Singh & Others**[2]**; Sanjay Verma vs. Haryana Roadways**[3] and in **The New India Assurance Co. Ltd. vs. Smt.Alpa Rajesh Shah & Ors.**[4] holds the field as on today. In the present case, the deceased was in service. He was an Engineer having a good career and therefore, allow 50% of the amount of the earning towards future prospects. The observation and the reasoning of the learned Member, Motor Accident Claims Tribunal, in the impugned judgment that applicant No.1, widow, was 26 years old at the time of making the claim application and she does not have any issue from the deceased and the possibility of her remarriage in the circumstances cannot be ruled out, is irrelevant and wrong & cannot be a ground to fix a

1 (2009) 6 SCC 121
2 (2013) 9 SCC 54
3 (2014) 3 SCC 210
4 2014(4) ALL MR 172

lesser compensation. Towards Loss of Affection the amount was granted at Rs.15,000/-, which is very less and considering the widow and the parents, it is raised upto Rs.1 lakh. Under the head of Loss of Estate, Rs.50,000/- is to be paid. Consortium is awarded at Rs.100,000/- and Funeral expenses are granted at Rs.25,000/-. Thus the total calculations are as under:

Sr.No.	Particulars		Amount
1.	Annual Loss of Dependency (rounded off)		3,87,670
2.	Multiplier of 16 (387670 X 16)		62,02,720
ADD:	50% Future prospects (50% of 62,02,720)		31,01,360
	TOTAL (A)		**93,04,080**
ADD:	Loss of Love & Affection for Widow, Parents & Brother		1,00,000
	Loss of Estate		50,000
	Loss of Consortium		1,00,000
	Funeral Expenses		25,000
	Total (B)		**2,75,000**
	Total A + B		**95,79,080**
LESS:	Amount already received towards NFL		50,000
	TOTAL COMPENSATION		**95,29,080**

8. Thus, the total compensation payable to the claimants is Rs.95,29,080/- with interest @ 7.5% p.a. from the date of filing application till realisation on the enhanced amount. The said amount is to be deposited within 10 weeks from today.

9. First Appeal is disposed of accordingly.

10. Civil Application also stands disposed of.

(MRIDULA BHATKAR, J.)