IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 FIRST APPEAL NO. 710 OF 1994

1) Abbahasan s/o Abdul Shakur
Age: 61 years, Occu.: Nil,
R/o.Khsrunagar, Nanded.

2) Aminabee w/o. Abba Hasan
Age: 51 years, Occu.: Household,
R/o. As above. ..Appellants

VERSUS

. The Maharashtra State Road Transport
Corporation,
Through its Divisional Controller,
Jalna Division, Jalna. ..Respondent

...

Advocate for Appellants : Mrs.A.N.Ansari.
Advocate for Respondent : Mr.U.B.Shriram h/f.
Mr.D.S.Bagul

...

CORAM : M.S.SONAK, J.
DATE : 8th FEBRUARY, 2018

ORAL JUDGMENT:-

1) The challenge in this appeal is to the Judgment and award dated 15.9.1994 made by the Motor Accident Claims

Tribunal, Nanded, awarding compensation of only Rs.58,000/- to the appellants for the death of their 24 years old son in a motor accident on 21.3.1993.

2) In this case, the Tribunal has taken the income of the deceased @ Rs.800/- per month, since, he was working as Attendant in a cloth shop. Although, it is on the lower side, there is no necessity to increase the same at this point of time, particularly, because the Tribunal has awarded interest @ 12% p.a. which by today's standard is on the higher side. These two factors will therefore. set-off each other. Thus, the compensation will be determined on the basis that the income of the deceased was Rs.800/- per month.

3) There is no dispute that the deceased was 24 years of age at the time of his unfortunate demise. The Tribunal has, however, failed to make any addition to future prospects. In terms of the decision of the

Constitution Bench of the Supreme Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and Others [2017(6) Bom.CR, 791]***, an addition of 40% is due towards future prospects. This means that the income of the deceased was required to be taken @ Rs.1,120/- per month. In this case, the Tribunal has taken the multiplier as 10. The learned counsel for the appellants submits that since the age of the deceased was 24 years, the appropriate multiplier, as per the decision in the case of ***Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another [(2009) 6 Supreme Court Cases, 121]***, should have been 18. However, in this case, the deceased has died as a bachelor and the claimants are the parents of the deceased. The learned single Judge of this Court has taken a view that in such a situation, it is the average age of the parents, which will determine the multiplier. In this case the multiplier would therefore come to 11 and not 10. In the peculiar facts of this case, it is pertinent that multiplier be taken as 11 and not merely 10 because there is some marginal dispute as regards the age of the parents. This means that the dependency would come to Rs.73,920/-.

4) In terms of decision in the case of ***Pranay Sethi*** (supra), towards non-pecuniary damages, compensation of Rs.70,000/- is due and payable. In this case, this is towards loss of love and affection, loss of estate and funeral expense. This takes the total compensation amount to Rs.1,43,920/-. In arriving at the figure of dependency, 50% deduction is made from out of the income of the deceased.

5) The impugned award is therefore, liable to be modified and in place of the compensation of RS.58,000/- inclusive of no fault liability as determined by the Tribunal, the compensation amount will have to be now determined as Rs.1,43,920/-. As noted earlier, the

interest component is maintained.

6) Learned counsel for the appellants fairly points out that the appellants had claimed an additional amount of Rs.42,000/- since at that time, they could afford the Court fees only upto the said extent. In matters such as these, it is the responsibility of the Court to determine the just compensation. The just compensation in this case comes to Rs.1,43,920/-. Therefore, there is no reason to deny the appellants the just compensation subject of course to the appellants depositing the deficit Court fees within a period of six weeks from today. Learned counsel for the appellants submits that the deficit Court fees will be paid at the earliest and in any case within a period of six weeks.

7) The respondent is directed to rework the compensation amount and to deposit the same in this Court within a period of eight weeks from today with due

intimation to the learned counsel appearing for the appellants. Upon deposit, the appellants shall be entitled to withdraw such enhanced compensation amount alongwith interest, unconditionally.

8) The appeal is disposed of in the aforesaid terms.

9) There shall be no order as to costs.

[M.S.SONAK, J.]