

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.339 OF 2004

1. Smt. Suman Ramdas Godge,
Age: 42 years, Occu.: Household,
2. Kum. Vaishali Ramdas Godge,
Age: 26 years, Occu. Household
3. Kum. Jayshree Ramdas Godge,
Age: 25 years, Occu.: Household,
4. Kum. Rekha Ramdas Godge,
Age: 20 years, Occu. Education,
5. Kum. Sonali Ramdas Godge,
Age: 19 years, Occu: Education
6. Kum. Bhushan Ramdas Godge,
Age: 17 years, Occu: Education
7. Tanhabai Dada Godge,
Age: 62 years, Occu: Household,
8. Dada Dhondiba Godge,
Age: 72 years, Occu.: Nil,

No.6 is Minor through his sole
guardian mother appellant No.1

All residents of Sangamner
Karkhana quarters, at
Sangamner Bhag Sahakari Sakhar
Karkhana Ltd. (Amritnagar)
Tq. Sangamner, Dist. Ahmednagar.

= **APPELLANTS**

VERSUS

1. Shri. Jitendra Monoharlal Shingala,
Age: Major, Occu.: Owner of tourist
Company,
R/o. Kailashwadi-Junction Plot,
Post and Dist. Rajkot,
District Rajkot, State Guj Rath
2. The United India Insurance Co.
Ltd. Through Divisional Manager,
Ahmednagar,

= **RESPONDENTS**

Mr. P.R. Tandale, Advocate holding for Mr. S.S. Arya
Advocate for Appellants;

Mr. A.B. Gatne, Advocate for Respondent No.2

...

CORAM : P.R. BORA, J.

DATED : 25th SEPTEMBER, 2018.

ORAL JUDGMENT:-

1. Original claimants in MACP No.1188 of 1994 decided by the Motor Accident Claims Tribunal at Ahmednagar (hereinafter referred to as the Tribunal) on 14th June, 2002, have filed the present appeal, seeking enhancement in the amount of compensation awarded in the said judgment by the Tribunal. Tribunal has awarded the compensation of Rs.1,91,600/-.

2. Head Shri Tandale, learned counsel appearing for the appellants (original claimants) and Shri A.B.Gatne, learned counsel appearing for Respondent No.2 – insurance company.

3. It is not in dispute that deceased Ramdas Godge died in a vehicular accident happened on 24th June, 1994 having involvement of luxury bus bearing registration No. GJ-3/T-8484 owned by Respondent No.1 and insured with Respondent No.2. It is

further not in dispute that the accident in question happened because of the negligence on part of the driver of the offending luxury bus. The appellants had assailed the impugned Judgment and Award on the point of quantum.

4. Learned counsel appearing for the appellants submitted that the Tribunal has grossly erred in deducting certain amounts from the salary income of the deceased while assessing the amount of compensation. The learned counsel further submitted that the Tribunal has also erred in applying the multiplier of 8 in stead of 13. The learned counsel further submitted that the amount of compensation, as has been awarded by the tribunal, towards the funeral expenses amounting to Rs. 2,000/- and the amount of Rs.15,000/- awarded towards the loss of consortium, are not just and adequate and need to be adequately enhanced. The learned counsel further submitted that the appropriate compensation payable to the appellants was as claimed by them in their claim petition and the same must have been awarded by the Tribunal. The learned counsel, therefore, prayed for allowing

the appeal and to enhance the amount of compensation as has been prayed by the appellants.

5. Shri Gatne, learned counsel appearing for Respondent – insurance company supported the impugned Judgment and Award . The learned counsel submitted that the deductions were properly considered by the Tribunal and the net salary which has been taken into consideration while determining the amount of compensation does not require any interference. The learned counsel was however fair enough in submitting that the multiplier of 8 was not correct and the appropriate multiplier to be adopted in the present matter was 13, as has been submitted on behalf of the appellants. The learned counsel, therefore, prayed for passing appropriate orders.

6. I have carefully perused the impugned judgment. I have also gone through the record of the case. Salary slip of deceased Ramdas is at Exhibit-38. It is not in dispute that deceased Ramdas was serving in manufacturing division of Sangamner Bhag Sahakari Sakhar Karkhana Ltd.,

Sangamner. The salary slip for the month of June-1994 shows that basic pay of deceased Ramdas was Rs.1570/- and the payable Dearness Allowance for the said month was at Rs.1190.82 ps. Thus, his total salary for the said month was Rs.2,689.82 ps. From the said amount, only the amounts which were liable to be deducted were a sum of Rs.70/- towards profession tax; and a sum of Rs. 14.17 towards washing allowance. Deducting the said amounts, the net salary of the deceased which comes to Rs.2600/- can be considered for the purpose of assessing the dependency compensation.

7. In view of the law settled by the Hon'ble Apex court the future prospects of the deceased are to be considered while determining the amount of dependency compensation. While determining the income of deceased salaried employees, an addition of 30% of actual salary to their income has to be made towards future prospects where deceased was below the age of 50 years as on the date of accident. Having applied the said criterion, the income of the deceased for the purpose of assessing the dependency compensation comes to around

Rs.3,380 (Rs.2600/- + Rs.780/- = Rs.3,380/-) per month, which annually comes to Rs.40,560/-. Considering the number of dependents of the deceased, only 1/4th of the said amount will be liable to be deducted towards the personal expenses of deceased Ramdas. Deducting the said amount, the net annual dependency of the claimants comes to Rs. 30,420/-. Having regard to the age of the deceased, the appropriate multiplier to be adopted in the present case will be 13. Applying the said multiplier, the amount of dependency compensation comes to Rs.3,95,460/-. Thus, I hold the appellants – claimants entitled for the said amount under the head of 'dependency compensation'. I also deem it appropriate to enhance the amount of non-pecuniary damages from Rs.18,000/- to Rs. 50,000/-. The claimants are thus held entitled for the total compensation of Rs.4,45,460/- (Rupees four lakhs forty five thousand four hundred and sixty). In the facts and circumstances of the case, it appears to me that this would be the just and fair compensation payable to the claimants. The impugned Award, therefore, needs to be modified to the aforesaid extent. Hence, the following order, -

ORDER

i. The appellants – claimants are held entitled for the total compensation of Rs. Rs.4,45,460/- (Rupees four lakhs forty five thousand four hundred and sixty) jointly and severally from Respondent Nos.1 and 2 inclusive of NFL compensation;

ii. The appellants claimants are held entitled for the interest @ Rs.9% per annum on the enhanced amount of compensation from the date of filing of the appeal till its realization;

iii. Award be drawn accordingly.

iv. Appeal stands partly allowed in the aforesaid terms. Pending civil application, if any, stands disposed of.

(P.R. BORA)
JUDGE

bdv
fldr 24.9.18