

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

FIRST APPEAL NO. 1279 OF 2014

1. Smt. Gopika w/o Suresh Rajmane
Age 29 yrs, Occ. Household
2. Kum. Anuradha d/o Suresh Rajmane
Age 20 yrs, Occ. Education
3. Dnyaneshwar s/o Suresh Rajmane
Age 17 yrs, Occ. Education
4. Vithal s/o Suresh Rajmane
Age 15 yrs, Occ. Education
5. Kum. Ashwini d/o Suresh Rajmane
Age 13 yrs, Occ. Education
6. Prafulla s/o Suresh Rajmane
Age 10 yrs, Occu. Education,

Appellants no. 3 to 6 are minors and U/G of their natural mother i.e. the appellant no.1 Smt. Gopika w/o Suresh Rajmane.

7. Tatyarao s/o Ramchandra Rajmane
Age 74 yrs, Occu. Agri.,
8. Shardabai w/o Tatyarao Rajmane
Age 64 yrs, Occu. Agri.,

All R/o Masla, Tq. & Dist. Latur. ..Appellants

Versus

1. Irphan s/o Ismail Gondgave
Age 25 yrs, Occu. Driver,
R/o Nilegaon, Tq. Chakur,
Dist. Latur.
2. Farukh s/o Ismail Gondgave
Age major, Occu. Driver,
R/o Nalagaon, Tq. Chakur,
Dist. Latur.

3. The New India Assurance Co. Ltd
Through its Branch Manager,
Latur Branch, Gayatri Kripa,
Chandra Nagar, Ukka Marg,
Latur, Tq. & Dist. Latur.
4. Hanumant s/o Gangaram Shrigire,
Age 48 yrs, Occu. Agri.,
r/o Belur, Tq. Ahmedpur, Dist. Latur
5. Pawan s/o Sheshrao Surewanshi,
Age Major, Occu. Business,
R/o Partapur Baswaklyan,
Tq. Baswakalyan, Dist. Bidar,
At present r/o Belur,
Tq. Ahmedpur, Dist. Latur.
6. Shriram General Insurance Co. Ltd
Through its Branch Manager,
E/8, EPIP RHCO Industrial Area,
Sitapur, Jaipur, Rajasthan ..Respondents

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Mr. Satish S. Manale, Advocate for Appellants.
Mr. A.B. Kadethankar, Advocate for Respondent No.3.
Mr. S.G. Chapalgaonkar, Advocate for Respondent No.6.
Mr. S.S. Panale, Advocate for Respondent No.5.

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CORAM : P.R. BORA, J.
DATE : 08th OCTOBER, 2018.

ORAL JUDGMENT:-

. The claimants in Motor Accident Claim Petition No. 11 of 2011 have preferred the present appeal seeking enhancement in the amount of compensation awarded by the Motor Accident Claims Tribunal at Latur in the petition decided on 18.01.2014.

2. The claimants had claimed the compensation of Rs. 48,30,960/- on account of the death of Suresh Rajmane in a road accident happened on 05.11.2010 having involvement of two vehicles, a jeep and a truck. Deceased was traveling by the jeep. From the pleadings it reveals that the said jeep rammed into the truck running ahead of it and in the accident so happened, Suresh died on the spot. The petition was resisted by the insurance company on various grounds. The learned Tribunal, however, recorded a clear finding that the alleged accident was a result of composite negligence on the part of the drivers of both the vehicles involved in the alleged accident and accordingly held the claimants entitled for the aforesaid amount of compensation in equal proportion, jointly and severally from the owner and insurer of each of the said two vehicles.

3. In the present appeal, it is the contention of the claimants that the Tribunal has not awarded the just and fair compensation to the claimants. The claimants though have raised many grounds in exception to the impugned judgment, Shri

Manale, the learned counsel appearing for the claimants during the course of arguments pressed only on one ground that the Tribunal has not considered the future prospects of the deceased.

4. On perusal of the impugned judgment, it is apparently revealed that the Tribunal has not considered the future prospects of the deceased while assessing the amount of dependency compensation. The Tribunal has held the annual income of deceased to the tune of Rs. 2,90,000/-. The discussion made by the Tribunal reveals that the income of the deceased as held by the Tribunal is based on the evidence adduced in that regard by the claimants. Having regard to the age of deceased to be 41 years on the date of accident and having further considered that he was serving as a teacher, 30% of his total income will be liable to be added in his existing income which comes to Rs. 87,000/-. Adding the aforesaid amount in his existing annual income of Rs. 2,90,000/-, the total comes to Rs. 3,77,000/-, on the basis of which the dependency compensation can be calculated by applying the appropriate multiplier.

5. Prior to that, having regard to the number of dependents on the income of the deceased, 1/5th of the amount will have to be deducted towards personal expenses of the deceased and after deducting the said amount, the amount which can be said to be available to be spent by the deceased on the welfare of his dependents comes to Rs. 3,01,600/-. Applying the multiplier of 14 to the aforesaid amount, the amount of dependency compensation comes to Rs. 42,22,400/-. In the aforesaid amount, the amount of Rs. 70,000/- is liable to be added towards the non-pecuniary damages. By adding the said amount, the total amount of compensation comes to Rs. 42,92,400/-.

6. 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 in the present case. With the aforesaid extent, the appeal deserves to be allowed. Hence, the following order:

ORDER

i) The appellants/claimants are held entitled for the enhanced compensation of

Rs. 10,04,400/-.

- ii) Half of the aforesaid amount shall be jointly or severally paid by respondent nos. 1 to 3 and remaining half of the amount shall be paid by respondent nos. 4 to 6 jointly or severally together with interest accrued thereon at the rate of 9% p.a. from the date of filing of the appeal till its realization.
- iii) The award be modified accordingly.
- iv) The appeal stands allowed in the aforesaid terms.
- v) Deficit Court fee, if any, shall be recovered from the claimants.

(P.R. BORA, J.)

Mujaheed//