IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.1366 OF 2003

01 Sahebrao Raghunath Wagh,
age: 45 years, Occ: Nil;

02 Chandrakant Sahebrao Wagh,
age: 19 years, Occ: Education
and Carpenter,
Both R/o Joharpur,
Tal: Shevgaon, District Ahmednagar. Appellants

Versus

01 Subhash Bhaurao Kadam,
age: major, Occ: Driver,
R/o Bhanshivare, Tal.Newasa,
District Ahmednagar.

02 The General Manager,
The Tata Engineering and
Locomotive Co. Ltd.,
Reg. Office, Bombay House,
24, Homi Modi, Street, Fort,
Bombay 400 001.

03 The New India Assurance
Company Limited,
(Through its Branch Manager,
Abbot Bldg., Kings Road,
Near Ashoka Hotel,
Ahmednagar.

04 Dr.Mohan Anantrao Potnis,
age: 50 years, Occ: Medical
Practitioner, R/o Shevgaon,
District Ahmednagar.

05 National Insurance Co. Ltd.,
through its Branch Manager,
Sarjepura, Ahmednagar. Respondents

None for appellants.
None present for Respondents

CORAM : M.S.SONAK, J.
DATE : 11th January, 2018.

ORAL JUDGMENT :

1 None for the appellants as well as for respondents. However, since this appeal is of the year 2003, same is taken up for final disposal.

2 The challenge in this appeal is to the award dated 10.04.2001 made by MACT, Ahmednagar, to the extent it denies to the appellants compensation of Rs.1,00,000/- (Rs. One lakh) on account of demise of Mathurabai Sahebrao Wagh in motor accident on 08.08.1995.

3 The appeal has been instituted by Mathurabai's husband and her son, who were claimants before the MACT. The appellants, in the appeal memo itself, have stated that though original claim was for Rs.2 lakhs, appellants are restricting the claim to Rs.One lakh.

4 On perusal of the appeal, it appears that the appellants have a grievance that the income of Mathurabai was taken as only Rs.600/- per month and not Rs.1100/- per month, as claimed by them. Appellants have also complained that no addition is made towards future prospects; towards loss of love and affection; and loss of estate and further even the amount paid towards funeral expenses is quite meager. It is urged that if all

these aspects would have been properly construed by the MACT, then compensation of at least Rs.One lakh was due and payable to the appellants.

5 Although, neither parties nor advocates are present, the impugned award as well as Record and Proceedings have been perused. Insofar as income of Mathurabai is concerned, there is no reason to disturb the finding recorded by the Tribunal. The claim, that the income was Rs.1100/- per month, was made on the ground that Mathurabai was an agriculturist. However, there is no independent evidence to support this fact. At the highest, it can be said that Mathurabai was assisting her husband in the agricultural operations. The income, on the basis of minimum wages payable, has been correctly taken as Rs.600/- per month, considering that the accident took place in the year 1995.

6 However, there is material on record to show that Mathurabai was 45 years old at the time of her demise. Therefore, there should have been addition of 25% to her income on the ground of future prospects and price escalation. This is in terms of the law laid down by the Constitution Bench of Hon'ble Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & others**, 2017 (13) SCALE 12. This means that income of Mathurbai should have been taken at Rs.750/- per month. From out of this, 50% amount was required to be deducted towards her personal expenses, which means that monthly income comes to Rs.375/-. There is no dispute that the multiplier in the present case would be 12. Therefore, Mathurabai's contribution to the family would be taken at

Rs.4500/- per year x 12 = Rs.54,000/-. The MACT, in this case, has warded compensation of Rs.20,000/- to the husband towards loss of company and love, which means consortium. However, no amount has been awarded to Mathurabai's son, towards loss of love and affection. It is only appropriate that compensation of Rs.10,000/- is awarded on this count. This takes to the total compensation to Rs.84,000/- inclusive of Rs.20,000/- already awarded by the MACT. Towards funeral expenses, a sum of Rs.4000/- has been awarded, which can be regarded as reasonable in the year 1995. This takes the total compensation amount to Rs.88,000/-. The amount can be rounded off to Rs.90,000/-. Since, no separate compensation has been awarded towards loss of estate, however, on examination of the matter, the compensation is assessed at Rs.90,000/- (Rs.Ninety Thousand) in its entirety.

7 The appeal is, therefore, partly allowed. The compensation amount is enhanced from Rs.68,000/- to Rs.90,000/-. (Rs.Ninety Thousand). The increased amount shall be paid in equal proportion, as directed by the MACT. The enhanced compensation amount shall also be shared equally by the two appellants. The appellants shall be entitled to interest @ 9% p.a. Only on this enhanced amount, which is the interest determined by the MACT in the impugned award. There shall be no order as to costs.

M.S.SONAK
JUDGE

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