

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

FIRST APPEAL NO.776 OF 2004

1. Syed Samiyoddin S/o. Syed Naziroddin
Age : 45 years, Occu : Labour,
R/o. Sadar Bazar, Tq. Ambajogai,
Dist. Beed

2. Gausiyabegam W/o. Syed Samiyoddin,
Age : 40 years, Occu : Household,
R/o. As above

.. Appellants
(Orig. Claimants)

Versus

Maharashtra State Road Transport,
Through its Divisional Controller,
Dist. Beed

.. Respondent
(Orig. Respondent)

.....

Shri S.G. Chapalgaonkar, Advocate for Appellants;
Shri A.B. Dhongade, Advocate for Respondent.

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CORAM : PR. BORA, J.
Dated: January 07, 2019

ORAL JUDGMENT :

1. By filing the present appeal, the appellants have claimed the enhancement in the amount of compensation as has been awarded by the Motor Accident Claims Tribunal at Ambajogai in Motor Accident Claim Petition No.85 of 2001 decided on 23.07.2003. The aforesaid claim petition was filed by the appellants, who are hereinafter referred to as the claimants, seeking compensation on account of the death of their minor

son aged about 8 years in a vehicular accident happened on 16.08.2001 having involvement of a bus No.MH-20-D-2598 belonging to the respondent – Corporation. The claimants had claimed the compensation of Rs.1,00,000/-, however the Tribunal after having assessed the evidence on record awarded the compensation of Rs.60,000/-. Aggrieved by, the appellants have preferred the present appeal.

2. The learned Counsel for the claimants submitted that, the learned Tribunal must have accepted the claim of the claimants in toto since a very reasonable amount of compensation was claimed by the claimants. The learned Counsel submitted that, the Hon'ble Apex Court has delivered several Judgments awarding compensation much more than the amount claimed by the appellants for the accidental death of the children in the same age group. The learned Counsel in the circumstances, prayed for adequate enhancement in the amount of compensation.

3. Shri Dhongade, learned Counsel appearing for the

respondent – Corporation supported the impugned Judgment and Award. The learned Counsel submitted that, the compensation of Rs.60,000/- as has been awarded by the Tribunal is just and fair compensation for the accidental death of a child aged about 8 years. The learned Counsel, therefore, prayed for dismissal of the appeal.

4. I have gone through the impugned Judgment and Award. I have also perused the grounds of objections raised in the memo of appeal. In substance, it is the contention on behalf of the claimants that, since they had claimed a very reasonable amount of compensation, the Tribunal must have awarded the entire said amount of Rs.1,00,000/- and should have decreed the claim petition in toto.

5. After having considered the evidence on record and having regard to the law settled by the judicial pronouncement of the Supreme Court in regard to the award of compensation in cases of the accidental death of the children in the age group of 8 to 10 years, it appears to me that, the claim so raised by the claimants seeking compensation of Rs.1,00,000/- was quite

reasonable and the Tribunal must have decreed the said claim in toto. I am, therefore, inclined to allow the present appeal and hold the appellants entitled to the total compensation of Rs.1,00,000/- as was claimed by them in the claim petition. In the result, the following order is passed.

ORDER

(i) The appellants – claimants are held entitled to the total compensation of Rs.1,00,000/-. The amount of compensation is thus enhanced by Rs.40,000/-.

(ii) The respondent – Corporation shall pay the aforesaid amount of enhanced compensation to the appellants – claimants with interest thereon at the rate of 9% per annum from the date of filing of the present appeal till its realization.

(iii) The appeal stands allowed in the aforesaid terms.

(iv) Award be prepared accordingly.

(v) Pending Civil Application, if any, stands disposed of.

(PR. BORA, J.)