

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.956 OF 2002

M/s. Kelkar and Kelkar	...Appellant
Versus	
Mr. Shripad Narayan Gore and Ors.	...Respondents

.....

Mr. Siddharth Chapalgaonkar i/b. Mr. Nitin P. Deshpande for the Appellant.
Mr. S.G. Deshmukh for the Respondent Nos.1, 2 and 4.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 22nd OCTOBER, 2019.

ORAL JUDGMENT :-

1. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the judgment and award dated 20th July, 2001 passed by the learned Additional Member, M.A.C.T., Pune, in Claim Petition No.991 of 1995. By the impugned judgment and award the Claims Tribunal has awarded total compensation of Rs.82,200/-with interest @ 9% per annum from the date of the application till realisation of the amount.

2. The Respondent No.1 was the husband and the Respondent No.2 is the son of the deceased-Nirmala, who died on 22/2/1995 in a motor vehicular accident. The respondent nos.1 and 2 shall be hereinafter

referred to as 'the claimants'.

3. It was the case of the claimants that on the relevant date the deceased was a pillion rider on a Moped bearing No.MZD 6354, which was driven by the Claimant No.1. While they were proceeding towards their residence by Soos road, a truck bearing No.MH-12-7297 (transit mixer vehicle) dashed against the moped and fled away from the scene of the accident. Said Nirmala died on the spot due to the injuries sustained in the accident. One of the persons who was present at the place of the accident had noted down the number of the offending truck as MH-12-7277 involved in the accident. Based on the information given by the said person, Claimant No.1 lodged the FIR against the driver of the truck bearing No.Mh-12-7277. In the course of the investigation, it was revealed that the truck involved in the accident was bearing No.MH-12-7297 and the same was driven by the Respondent no.3-Surendra Baban Shinde. The investigating officer therefore filed a charge sheet against the Respondent No.3 for driving the vehicle in a rash and negligent manner and thereby causing death of Nirmala.

4. The Claimants alleged that the deceased was 57 years of

age. She was doing tailoring business and conducting cooking as well as tailoring classes and earning Rs.2,000/- per month. The Claimants alleged that the accident was caused due to rash and negligent driving of the respondent no.3. The said truck which was owned by the appellant – company was not insured. The claimants therefore filed an application under Section 166 of the Motor Vehicle Act claiming compensation of Rs.1,50,000/- from the Appellant and the respondent no.3 being the owner and driver of the offending vehicle.

5. The Appellant disputed the involvement of the truck bearing No.Mh-12-7297 in the said accident. The Appellant claimed that the compensation claimed was excessive and exorbitant. The Tribunal upon appreciating the evidence adduced by the respective parties held that the truck bearing No.Mh-12-7297, which was driven by the Respondent No.3-driver, was involved in the accident. The Tribunal also recorded a finding that the accident was caused due to rash and negligent driving of the Respondent No.1.

6. As regards the quantum of compensation, the evidence on record indicates that the deceased was 57 years of age. The evidence of the Claimant No.1 Shripad Gore indicates that the deceased was doing

tailoring work and earning Rs.700/- to Rs.800/- per month. The Tribunal has held that apart from the bare statement of the Claimant No.1, there is no other documentary evidence to prove that the deceased was competent and eligible to conduct tailoring business. The Tribunal however noted that the statement of the Claimant No.1 as regards the earning of the deceased had gone unchallenged and hence there was no difficulty in accepting the fact that she was earning Rs.700/- to Rs.800/- per month. The Tribunal further observed that the claimant was a retired JCO and was getting pension. He was not dependent on the earnings of the deceased and consequently the earning of the deceased cannot be considered as loss of dependency. The Tribunal has held that the earnings of the deceased can be considered as loss of estate and accordingly applying multiplier of 8, the Tribunal has awarded Rs.67,200/- towards loss of estate. In addition the Tribunal has awarded compensation of Rs.15,000/- towards loss of spousal consortium, love and affection and funeral expenses. Thus, the Tribunal awarded total compensation of Rs.82,200/-. Being aggrieved by the said judgment and award, the Appellant has preferred this appeal under Section 173 of the Motor Vehicles Act.

7. Mr. Siddharth Chapalgaonkar, the learned counsel for the Appellant submits that the Claimants had not proved the involvement of the truck bearing No. MH-12-7297 in the accident. He states that the bus ticket on which the number of the offending vehicle was noted was not produced before the Tribunal. He further submits that the FIR does not indicate that the offending vehicle was a transit mixer vehicle but states that the vehicle involved in the accident was a truck bearing No.MH-12-7277. He submits that the evidence was too sketchy to establish the identity of the vehicle. He has relied upon the decision of the Delhi High Court in *Gulab Chand Dhot v/s. P.N. Aggarwal, 1994 ACJ 887*.

8. The learned counsel for the Appellant further submits that the Claimants had not produced any documentary evidence to prove the income of the deceased. He therefore submits that the Tribunal has erred in considering her income as Rs.700/- per month. He further submits that the Claimants have not filed cross appeal and as such this Court cannot enhance the compensation, even if compensation awarded by the Tribunal is held to be on a lower side and is not just and reasonable compensation. He has relied upon the decision of the Apex Court in *Ranjana Prakash and ors. V/s. Divisional Manager and*

anr., (2011) Vol.14 SCC 639.

9. Mr. S.G. Deshmukh, the learned counsel for the claimants submits that identity of the vehicle had been sufficiently proved and as such the discrepancy in noting down the number as MH-12-7277 is insignificant. On the issue of quantum of compensation, he contends that apart from being a home maker, the deceased was also conducting cooking classes and was doing tailoring business. He submits that the Tribunal was not justified in computing loss of dependency on the basis of notional income of Rs.700/-. He further submits that the Tribunal has also applied incorrect multiplier and has not awarded any compensation towards loss of estate. Furthermore, the Tribunal has awarded meager amount towards loss of spousal consortium and funeral expenses. He submits that the compensation awarded by the Tribunal is not 'just compensation'. He submits that the appeal being continuation of claim petition, this Court can enhance the compensation even in the absence of cross appeal or cross objection.

10. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. The

questions which fall for my consideration are – (i) whether the Tribunal has erred in holding that the Truck No.MH-12-7297 was involved in the accident and (ii) whether the compensation by the Tribunal is just compensation and if not whether this Court can enhance the compensation in the absence of an appeal or cross objection.

11. It is not in dispute that Nirmala, wife of the original Claimant No.1 and mother of the Claimant No.2 expired in a motor vehicular accident at Soos road, Pune on 22nd May, 1995, at 05:30 p.m. The deceased-Nirmala was a pillion rider on a moped bearing No.MZD 6354 driven by her husband-Claimant No.1. The evidence of the Claimant No.1 indicates that while they were proceeding towards their residence, a truck with a concrete mixer dashed against the rear side of his moped and fled away from the spot of the accident. His wife-Nirmala fell off the moped and died on the spot. One of the persons present at the place of the accident had given him a bus ticket on which he had noted down the number of the truck. The Claimant No.1 went to the police station on the same day and lodged the FIR against the driver of the truck bearing No.MH-12-7277 for driving the vehicle in a rash and negligent manner.

12. Suvarna Jagdale was a witness to the accident. Her evidence indicates that she had seen a truck giving a dash against the moped driven by Claimant No.1. She has described the offending truck as of orange colour with a “circular type attachment’, which would suggest that the vehicle involved in the accident was a truck with a cement concrete mixer (transit mixer vehicle) and the same meets the description of the offending vehicle.

13. It is to be noted that the truck had fled away from the place of the accident. The wife of the Claimant No.1 had expired in the said accident. The Claimant No.1 had also sustained injuries. Under such circumstances, Claimant No.1 would not have an opportunity to note down the number of the truck or identify the driver. Considering the mental strain and trauma, he would also not be in a fit condition to give full description of the truck. Hence the mere fact that the Claimant No.1 had not given a full description of the truck in the FIR is hardly of any relevance.

14. It is in evidence that the Claimant No.1 had lodged the FIR against the driver of the truck bearing No.MH-12-7277 on the basis of the information given to him by one of the persons who had noted

down the number of the truck. The investigation revealed that the truck involved in the accident was registered under No. MH-12-7297 and that the same was owned by the Appellant, who has a Ready Mixer Concrete Plant at Soos road. The Tribunal has noted that the error was only in noting the 2nd last digit as '7' instead of '9'. The Tribunal has observed that the said error could have occurred while noting down the number when the truck was speeding away from the place of the accident or due to smearing of the number plate with cement or mud. The Tribunal has therefore overlooked the error, and rightly so, as trivial and insignificant.

15. It is also an admitted fact that the appellant has a cement concrete mixer plant at a distance of about $\frac{1}{2}$ a kilometer from the place of the accident. Manohar Kelkar, one of the partners of the appellant – Firm has admitted that there is no other concrete mixer plant in the said vicinity. He has admitted that the appellant owns transit mixer vehicles and that the said vehicles were used for transporting and delivering cement concrete mixture to its customers.

16. The evidence of this witness as well as the evidence of the respondent no.3 further indicates that on the relevant date, the

respondent no.3 was the driver of the vehicle no.MH-12-7297. The evidence of the respondent no.3 viz-a-viz octroi and delivery challans at Exhibit – 37 indicate that the truck no. MH-12-7297 had left the plant at about 03:00 p.m. to deliver the cement concrete mixture to one Mr. Patel. After unloading and delivering the cement concrete mixture, at about 05:15 p.m., the truck bearing no.MH-12-7297 had proceeded towards the plant at Soos. The accident had occurred on Soos Road at about 05:30 p.m. The above evidence would lead to an inference that the truck no. MH-12- 7297 had plied on the said route on the relevant date and time. Though Respondent No. 3 has claimed that he had taken Baner road, there is nothing on record to suggest that the alternative road was a shorter or more convenient route. There was thus no probable reason for the Respondent to take an alternative route.

17. Furthermore, there is nothing on record to indicate that any other transit mixer truck was registered under no. MH-12- 7277 or that such truck had plied on the said route on the given date and time. Another important fact which cannot be overlooked is that the the investigating agency having investigated the accident report had filed a charge sheet against Respondent no.3 for having driven the truck no MH-12-7297

in a rash and negligent manner and thereby causing the death of Nirmala. There was no reason for the investigating agency to falsely implicate the respondent no.3.

18. In the case of *Gulab Chand Dhot (supra)*, the Delhi High Court, on the facts of the case, has held that the identity of the vehicle involved in the accident was not established. It is well settled that the claim petitions under Section 166 of M.V.Act are to be decided on the touchstone of preponderance of probabilities and not on the basis of proof beyond reasonable doubt. In the instant case the facts and circumstances brought on record amply establish the involvement of truck in the accident and further prove that the accident was caused due to rash and negligent driving of the Respondent no.3. The decision in *Gulab Chand Dhot (supra)* is therefor of no assistance in the instant case. In an overall analysis, the Tribunal has taken a holistic view of the matter, without succumbing to niceties and hyper technicalities. Consequently the finding on the issue of identity of the vehicle does not call for interference.

19. As regards the quantum of compensation, the evidence of the Claimant No.1 proves that the deceased was doing tailoring business

and earning Rs.700/- to Rs.800/- per month. The Claims Tribunal has disbelieved the said statement for want of documentary evidence even though there was no challenge to the said statement. Suffice it to say, it would be unrealistic to expect a small time village tailor to prove her income by producing documentary evidence.

20. Homemaking is neither an easy task nor a dull existence. As the saying goes – men make houses, women make homes. The deceased was one of such home makers, attending to the daily needs of her husband and children and doing other house hold chores beyond 9 to 5 work schedule. Her contribution as a homemaker could not have been ignored while assessing loss of dependency. In ***Arun Kumar Agrawal vs. National Insurance Co. Ltd., (2010) 9 SCC 218***, the Apex Court has observed thus:-

“ 62. Alternative to imputing money values is to measure the time taken to produce these services and compare these with the time that is taken to produce goods and services which are commercially viable. One has to admit that in the long run, the services rendered by women in the household sustain a supply of labour to the economy and keep human societies going by weaving the social fabric and keeping it in good repair. If we take these services for granted and do not attach any value to this, this may escalate the unforeseen costs in terms of deterioration of both human capabilities and social fabric.

63. Household work performed by women throughout India is more than US \$ 612.8 billion per year (Evangelical Social Action

Forum and Health Bridge, page 17). We often forget that the time spent by women in doing household work as homemakers is the time which they can devote to paid work or to their education. This lack of sensitiveness and recognition of their work mainly contributes to women's high rate of poverty and their consequential oppression in society, as well as various physical, social and psychological problems. The courts and tribunals should do well to factor these considerations in assessing compensation for housewives who are victims of road accident and quantifying the amount in the name of fixing 'just compensation'. ”

21. In ***Jitendra Khimshankar Trivedi and ors. v/s. Kasam Daud Kumbhar and ors., (2015) 4 SCC 237***, the Apex Court has reiterated these principles and has observed that :-

“10. ... It is hard to monetize the domestic work done by a house-maker. The services of the mother/wife is available 24 hours and her duties are never fixed. Courts have recognized the contribution made by the wife to the house is invaluable and that it cannot be computed in terms of money. A house-wife/home-maker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the home-maker has to be necessarily kept in view while calculating the loss of dependency... ”

22. In the instant case, the deceased was not only performing multiple tasks as a home-maker but she was also contributing to the family income by working as a tailor. The Tribunal has failed to consider the contribution made by the deceased and has grossly erred in holding that the appellants were not dependent on her income. The Tribunal has also erred in applying the multiplier of 8 even though

considering the age of the deceased, the appropriate multiplier was 9. The compensation awarded under other conventional heads is also meager. Hence, in my considered view, the compensation awarded by the Tribunal cannot be considered to be 'just compensation'.

23. The Claimants have admittedly not filed a cross appeal and this gives a rise to a question whether this Court can enhance the compensation in the absence of a substantive appeal or cross objection. Mr. Chapalgaonkar, the learned counsel for the appellant has relied upon the decision of the Apex Court in *Ranjana Prakash (supra)*, to contend that this Court cannot enhance the compensation in the absence of a substantive appeal or cross objection. In *Ranjana Prakash (supra)*, the Claims Tribunal had awarded compensation of Rs.24,12,936/- with interest @ 9% p.a. In an Appeal filed by the Insurance Company, the High Court reduced the compensation to Rs.16,89,055/- by deducting 30% towards income tax, without taking cognizance of the contention of the Claimant that the Tribunal ought to have added 30% towards future prospects and that for this reason, the computation of compensation did not call for any interference. It was on the consideration of the aforesaid contentions that the Apex Court has held thus :-

“ 6.But where in an appeal filed by the owner/insurer, if the High Court proposes to reduce the compensation awarded by the Tribunal, the claimants can certainly defend the quantum of compensation awarded by the Tribunal, by pointing out other errors or omissions in the award, which if taken note of, would show that there was no need to reduce the amount awarded as compensation. Therefore, in an appeal by the owner/insurer, the appellant can certainly put forth a contention that if 30% is to be deducted from the income for whatsoever reason, 30% should also be added towards future prospects, so that the compensation awarded is not reduced. The fact that claimants did not independently challenge the award will not therefore come in the way of their defending the compensation awarded, on other grounds. It would only mean that in an appeal by the owner/insurer, the claimants will not be entitled to seek enhancement of the compensation by urging any new ground, in the absence of any cross-appeal or cross-objections.

7. This principle also flows from Order 41 Rule 33 of the Code of Civil Procedure which enables an appellate court to pass any order which ought to have been passed by the trial court and to make such further or other order as the case may require, even if the respondent had not filed any appeal or cross-objections. This power is entrusted to the appellate court to enable it to do complete justice between the parties. Order 41 Rule 33 of the Code can however be pressed into service to make the award more effective or maintain the award on other grounds or to make the other parties to litigation to share the benefits or the liability, but cannot be invoked to get a larger or higher relief. For example, where the claimants seeks compensation against the owner and the insurer of the vehicle and the Tribunal makes the award only against the owner, on an appeal by the owner challenging the quantum, the appellate court can make the insurer jointly and severally liable to pay the compensation, along with the owner, even though the claimants had not challenged the non-grant of relief against the insurer. Be that as it may.

8. *Where an appeal is filed challenging the quantum of compensation, irrespective of who files the appeal, the appropriate course for the High Court is to examine the facts and by applying the relevant principles, determine the just compensation. If the compensation determined by it is higher than the compensation awarded by the Tribunal, the High Court will allow the appeal, if it is by the claimants and dismiss the appeal, if it is by the owner/insurer. Similarly, if the compensation determined by the High Court is lesser than the compensation awarded by the Tribunal, the High Court will dismiss any appeal by the claimants for enhancement, but allow any appeal by owner/insurer for reduction. The High Court cannot obviously increase the compensation in an appeal by owner/insurer for reducing the compensation, nor can it reduce the compensation in an appeal by the claimants seeking enhancement of compensation. ”*

24. It may be mentioned that a three Judge Bench of the Apex Court in the case of ***Nagappa v/s. Gurudayal Singh, (2003) 2 SCC 274***, has held that :-

“ 13. Hence, as stated earlier, it is for the Tribunal to determine just compensation from the evidence which is brought on record despite the fact that claimant has not precisely stated the amount of damages of compensation which he is entitled to. If evidence on record justifies passing of such award, the claim cannot be rejected solely on the ground that claimant has restricted his claim...

14. xxx

15. xxx

16. *From the aforesaid observations it cannot be held that there is a bar for the Claims Tribunal to award the compensation in excess of what is claimed, particularly when the evidence which is brought on record is sufficient to pass such award. In cases where there is no evidence on record, the Court may permit such amendment and allow to raise additional issue and give an opportunity to the parties to produce relevant evidence.*

17. xxx
18. xxx
19. xxx
20. xxx

21. *For the reasons discussed above, in our view, under the M.V. Act., there is no restriction that Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award 'Just' compensation which is reasonable on the basis of evidence produced on record. Further, in such cases there is no question of claim becoming time barred or it cannot be contended that by enhancing the claim there would be change of cause of action. It is also to be stated that as provided under sub-section (4) to Section 166, even report submitted to the Claims Tribunal under sub-section (6) of Section 158 can be treated as an application for compensation under the M.V. Act. If required, in appropriate cases, Court may permit amendment to the Claim Petition. "*

25. In ***Ramla v/s. National Insurance Co. Ltd. (2019) Vol.2 SCC 192***, the Hon'ble Supreme Court has reiterated these principles and has observed that the Motor Vehicle Act is a beneficial and welfare legislation and the Courts are duty bound to award just compensation, which is reasonable on the basis of the evidence produced on record.

26. In ***Ningamma and anr. V/s. United India Insurance Co. Ltd., (2009) 13 SCC***, the Apex Court has observed that :-

" 34. Undoubtedly, Section 166 of the MVA deals with "just compensation" and even if in the pleadings no specific claim was made under Section 166 of the MVA, in our considered opinion a party should not be deprived from getting "just compensation" in

case the claimant is able to make out a case under any provision of law. Needless to say, the MVA is beneficial and welfare legislation. In fact, the court is duty-bound and entitled to award "just compensation" irrespective of the fact whether any plea in that behalf was raised by the claimant or not. "

27. In ***A.P.S.R.T.C. Rep. by its General Manager and anr. V/s. M. Ramadevi and ors. 2008(1) T.A.C. 714 (S.C.)***, while considering the question whether the High Court could have enhanced the compensation in the absence of an appeal by the claimant, reiterated the principles in ***Nagappa (supra)*** that under Motor Vehicles Act there is no restriction that the Tribunal Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal Court is to award 'just compensation' which is reasonable on the basis of evidence produced on record.

28. In ***Jitendra Khimshankar (supra)***, the Tribunal had considered the income of the deceased as Rs.1,500/- per month and awarded compensation of Rs.2,24,000/-. In an appeal filed by the insurance company, the High Court assessed the income of the deceased as Rs.1,350/- per month and reduced the compensation to Rs.2,09,400/-. The Apex Court observed that the deceased would have earned not less than Rs.3,000/- per month. Though the Apex Court had enhanced the

compensation in exercise of its extraordinary powers under Article 142 of the Constitution of India, it would be advantageous to refer to the observations made by the Apex Court in paragraph 12 of the judgment, which read thus :-

“ 12. The Tribunal has awarded Rs.2,24,000/- as against the same, claimants have not filed any appeal. As against the award passed by the tribunal when the claimants have not filed any appeal, the question arises whether the income of the deceased could be increased and compensation could be enhanced. In terms of Section 168 of the Motor Vehicles Act, the courts/tribunals are to pass awards determining the amount of compensation as to be fair and reasonable and accepted by the legal standards. The power of the courts in awarding reasonable compensation was emphasized by this Court in Nagappa vs. Gurudayal Singh & Ors.[3], Oriental Insurance Company Ltd. vs. Mohd. Nasir & Anr.[4], and Ningamma & Anr. vs. United India Insurance Company Ltd.[5]. As against the award passed by the tribunal even though the claimants have not filed any appeal, as it is obligatory on the part of courts/tribunals to award just and reasonable compensation, it is appropriate to increase the compensation. ”

29. In ***National Insurance Co. Ltd. v/s. Vaishali Harish Devare and ors. in First Appeal No.1068 of 2012***, the Division Bench of this Court has held that :-

“ 16.....The claim petition filed under section 166 of the said Act is not in the nature of a suit. Under section 168 of the said Act, the Tribunal is duty bound to hold an inquiry to determine the amount of compensation which appears to be just. Thus, the concept of just compensation has been incorporated in section 168 of the said Act. It is well settled that the Tribunal constituted under the said Act is not bound by the strict rules of the evidence. As we have stated

earlier, the claim petition under section 166 is not a suit . While deciding the claim petition, the Tribunal is under an obligation to determine just compensation payable to the Claimants. This appeal being the continuation of the claim petition, even this Court is under an obligation to determine the just compensation payable to the claimants. Even if there is no cross appeal or cross - objection preferred by the claimants, the exercise of determining the just compensation will have to be carried out. After carrying out the said exercise if it is found that the claimants are entitled to more amount than what is granted under the impugned Judgment and Award, in absence of appeal or cross objection, this Court may not enhance the compensation amount payable. Therefore, while deciding this appeal, an adjudication is required to be made whether the compensation granted by the Tribunal is a just compensation. Such adjudication can be made even without taking recourse to Rule 33 of Order XLI of the said Code. ”

30. Similar view has been taken by the Single Judge of this Court in ***The State of Maharashtra (Through the Collector of Nashik) and ors. v/s. Smt. Kamaladevi Kailashchandra Kaushal and ors. in First Appeal No.103 of 2017*** and in ***New India Assurance Company Ltd. v/s. Smt. Seema Sudam Auti and ors. 2017(5) ALL MR 552.***

31. It is thus well settled that while dealing with Claim Petition under Section 166 of Motor Vehicles Act, which is a benevolent provision, the Tribunal / Court is not bound by the pleadings or strict rules of evidence. Under Section 168 of the M.V. Act, the Tribunal / Court is under a statutory obligation to determine ‘just compensation’ without

succumbing to the niceties or technicalities of the matter. In computing just compensation, the emphasis is on justice oriented approach, by the Tribunal as well as the Appellate Court. Keeping in mind the object of the Act and the principles laid down by the three Judge Bench of the Apex Court in *Nagappa (supra)* and the above referred decisions, it is clear that there is no embargo for the Claims Tribunal or the Court to award compensation in excess of what is claimed. Since it is a statutory obligation of the Court to do complete justice to the parties and award just compensation, there is no restriction to enhance the compensation in appropriate case even in the absence of cross appeal or cross objection.

32. Reverting to the facts of the present case, the evidence of AW1 indicates that the deceased was earning Rs.800/- per month from tailoring business. She was also performing multiple tasks as a home maker. Her contribution as a home maker can reasonably be considered as Rs.1000/- per month. Thus, the total income of the deceased can be considered as Rs.1,800/- per month i.e. Rs.21,600/- per annum. Deducting 1/3rd towards her personal expenses, contribution of the deceased to the family is calculated at Rs.14,400/- per annum. The deceased was 57 years of age. As per the judgment

of *Sarla Verma and ors. v/s. Delhi Transport Corporation and anr.*, (2009) 6 SCC 121, the multiplier applicable for the persons within the age group of 55-60 is 9. Adopting multiplier 9, total loss of dependency is calculated at Rs.1,29,600/-. The Tribunal has awarded total compensation of Rs.15,000/- on three conventional heads viz., loss of consortium, loss of love and affection and funeral expenses. In terms of the judgment of the Apex Court in *National Insurance Company Limited v/s. Pranay Sethi and Others*, (2017 16 SCC 680), the Claimant No.1 would be entitled for compensation of Rs.40,000/- towards loss of spousal consortium and in addition compensation of Rs.30,000/- towards funeral expenses and loss of estate. Hence, the Claimants would be entitled for total compensation of Rs.1,99,600/-, which can be rounded to Rs.2,00,000/- which in my considered view, is just and reasonable compensation. The rate of interest as directed by the Tribunal shall remain unaltered. The award passed by the Tribunal would stand modified to the above extent.

33. Under the circumstances and in view of discussion supra, the following order is passed :-

- (a) The Appeal is dismissed.
- (b) The compensation payable to the Respondent – Claimant is

enhanced to Rs.2,00,000/- as against Rs.82,200/- as determined by the Tribunal.

(c) The Appellants are directed to deposit before the Tribunal the balance amount of Rs.1,17,800/- with interest @ 9% per annum from the date of the application till the date of payment of compensation, within a period of eight weeks from the date of uploading of this order.

(d) Leave is granted to the Claimants to apply to the Tribunal for withdrawal of the compensation on payment of additional court fee, if any, as per the statute.

(e) Record and proceedings be returned to the Tribunal.

**Megha
Parab**

Digitally signed by
Megha Parab
Date: 2019.11.11
16:46:57 +0530

(SMT. ANUJA PRABHUDESSAI, J.)