

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

FIRST APPEAL NO. 735 OF 2003

The Divisional Controller,
Maharashtra State Road Transport
Corporation, Division – Aurangabad,
District Aurangabad

... **Appellant**
[Ori.Respondent No.1]

Versus

1. Kadubaji s/o Nathaji Bedre
Age-35 years, Occu. Labour,
R/o. Samtanagar, Aurangabad

2. Indubai w/o Kadubaji Bedre,
Age-30 years, Occu. Household,
R/o above

[Ori. Claimant No.1 & 2]

3. Pandurang Narayan Kadam
Age-Major, Occu-Driver,
R/o Kada, Taluka – Ashti,
District – Beed

[Ori. Respdt.No.2]
... **Respondents**

....

Smt. Ranjana D. Reddy, Advocate for appellant
Mr. D. R. Markad, Advocate h/f Mr. N. K. Kakade, Advocate for
respondent No.3

....

CORAM : R. G. AVACHAT, J.

DATED : 17th NOVEMBER, 2021

PER COURT :-

. The challenge in this appeal is to the judgment and
award dated 04.02.2003, passed by the Member, Motor Accident
Claims Tribunal, Aurangabad in Motor Accident Claim Petition No.22

of 1999, granting compensation of Rs. 1,62,000/- (inclusive of N.F.L. amount) with interest @ 9% p.a. on account of death occurred in vehicular accident.

2. The claim petition was filed by the parents of the deceased Namdeo. It so happened, the deceased Namdeo, a 12 years boy was riding bicycle. He was knocked down by the bus belonging to the Maharashtra State Road Transport Corporation (MSRTC). As a result of injuries suffered in the accident, Namdeo breathed his last on the day of the accident itself i.e. on 14.11.1998. His parents therefore preferred the petition for compensation. Since the deceased was a school boy, the Tribunal considered his income notionally at Rs.15,000/- per annum. After deducting 1/3rd thereof towards his personal and living expenses, annual loss of dependency is worked out at Rs.10,000/- and applying the multiplier of 15, the amount of compensation has been awarded.

3. The appellant – MSRTC finding the amount of compensation awarded by the Tribunal to be excessive, preferred the present appeal. It has also come with a case of contributory negligence as well.

4. Learned Advocate for the appellant – MSRTC would submit that the deceased was a school boy. The Tribunal, therefore, ought not to have considered his income notionally at Rs.15,000/- p.a. She would further submit that the deceased was crossing the road and as such, contributed to the accident and his resultant death. She, therefore, urged for allowing the appeal.

5. Considered the submissions made by the learned Advocate for the appellant – MSRTC. Perused the impugned judgment and award. Also gone through the evidence produced before the Tribunal. On due investigation, the Bus Driver has been proceeded against by filing charge-sheet. The Bus Driver did not examine himself before the Tribunal. The panchanama of the scene of the accident does not indicate it to be a case of contributory negligence. On the question of quantum is concerned, it is to be stated that the deceased was the only child of the respondents-claimants. The amount of compensation of Rs.1,62,000/- inclusive of N.F.L. amount is not found to be on higher side in the facts and circumstances of the case.

6. As such, no interference is warranted with the impugned judgment and award. In the result, appeal fails. The same is dismissed.

7. The amount in deposit, be immediately paid to the respondents – claimants along with interest accrued thereon.

8. The Registrar (Judicial) of this Court is requested to do the needful for disbursement of the amount of compensation in deposit with this Court.

[R. G. AVACHAT, J.]

SMS