

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

**FIRST APPEAL NO. 1151 OF 2004**

1. Mangal d/o Gangadhar Dongre  
Age : 23 years, Occ : Education,  
R/o Gandhi Nagar, Behind Civil Hospital,  
Latur, Dist. Latur.
2. Vikas S/o Gangadhar Dongre  
Age : 19 years, Occ : Education,  
R/o Gandhi Nagar, Behind Civil Hospital,  
Latur, Dist. Latur.

**...APPELLANT**

**VERSUS**

1. Tukaram Babanrao Mate  
Age : 58 years, Occ : Driver,  
R/o Sai Road, opposite to  
Agrawal Industries Latur,  
Dist. Latur.  
(As per Registrar order deleted on 14.02.2006.  
Appeal dismissed against respondent no.1.)
2. Purshottam S/o Bansilal Malu  
Age : 46 years, Occ : Business,  
R/o Sambhaji Nagar, Khadgaon Road,  
Latur, Dist. Latur.
3. The Oriental Insurance Co. Ltd.,  
Through its Branch Manager,  
Branch Office, Latur, Dist. Latur.

**...RESPONDENTS**

...  
Advocate for appellants : Mr.J.M. Murkute,  
Shri R.F. Totla, advocate for respondent no.3.

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**CORAM : S. G. DIGE, J.**  
**DATE : 26.09.2022**

**ORAL JUDGMENT :**

. The challenge raised in this appeal is to reduction of compensation granted by the Member, Motor Accident Claims Tribunal, Latur (For short, “the Tribunal”).

2. It is the contention of the learned counsel for the appellants that the parents of the appellants died in the accident. The claim petition was filed before the Tribunal, Latur for getting compensation. After considering the evidence, the Tribunal calculated the loss of dependency of the appellants of Rs.12,01,176/-, but allowed the claim of the appellants to the extent of Rs.8,00,000/- only without any lawful ground even though the appellants had shown their willingness to deposit the deficit court fees. Hence requested to allow the appeal.

3. It is the contention of the learned counsel for the respondent that the Tribunal has observed that, the appellants – original claimants had restricted their claims to Rs.5,00,000/- and paid the court fees stamp on the amount of

Rs.5,00,000/-. Accordingly, the Tribunal has awarded just compensation. Hence the judgment and order passed by the Tribunal is legal and valid.

4. I have heard both the learned counsel. Perused the judgment and order passed by the Tribunal.

5. The issue involved in this appeal is whether the Tribunal is proper in reducing Rs.4,00,000/- compensation contrary to its findings that the appellants are entitle for amount of compensation of Rs.12,01,176/- ?

6. The Tribunal has observed that the total loss of dependency would be Rs.12,01,176/-. It is further observed that the claimants have restricted their claims to the tune of Rs.5,00,000/- and also paid the court fees stamp on it. The learned Tribunal further observed that the appellant no.1 – claimant no.1 is earning to some extent and getting Rs.3,000/- per month towards her salary and relying on referred case laws held that the amount of Rs.8,00,000/- will be just and reasonable amount of compensation.

7. Perused the judgment of Orissa High Court in the case of *Sabitri Mallick and ors Vs. Haladhar Bhuyan and others in Miscellaneous Appeal No.464 of 1993, decided on 25.01.2000* on which the Tribunal has relied. In the said judgment, it is not held that the compensation should be reduced. In fact in the said judgment, it is mentioned that the Tribunal is not powerless in making award even in excess of the amount claimed. The Tribunal has taken contrary view of the judgment. The Tribunal has already come to the conclusion that the appellants are entitle for compensation of Rs.12,01,176/- and without any valid reason, the said amount is reduced to Rs.8,00,000/-, which is not proper and legal.

8. The Motor Vehicles Act is beneficial legislation. While awarding the compensation the Tribunal has to see whether just and proper compensation is being awarded to the claimants. The Tribunal should not take mechanical and technical approach while awarding the compensation. Though the claim is restricted for some particular amount, it does not mean that the claimants are not entitle for more amount than the restricted claim. The loss suffered by the

claimants cannot be compensated in terms of money. Hence though the claim is restricted for a particular amount, the claimants are entitle for more amount if the Tribunal found that the claimants are entitle for that amount.

9. In view of the above, I pass the following order :-

**ORDER**

- (i) The appeal is allowed.
- (ii) The respondent nos.1 to 3 severally and jointly do pay the amount of Rs.4,00,000/- to the claimants – appellants towards compensation together with interest @ 6% p.a. from the date of filing the claim petition till its realization.
- (iii) The appellants are permitted to withdraw the amount deposited by the respondents.
- (iv) The appeal is disposed of in above terms.

**(S. G. DIGE)**  
**JUDGE**

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SGA/-