

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

FIRST APPEAL NO. 996 OF 2004

- 1] Laxmibai w/o. Waman Salunke
Age – 27 year, Occu. - Household.
- 2] Priyanka d/o. Waman Salunke,
Age- 6 years.
- 3] Pratiksha Waman Salunke,
Age – 2 ½ years.
- 4] Sakharbai Ghansham Salunke
Age- 60 years, Occu. - Household.
- 5] Pratigya d/o. Waman Salunke
Age – 10 months.

Claimants 2, 3 & 5 are minors,
u/g. of claimant no.1 real mother,
All resident of village Utka,
Tq. Ausa, Dist. Latur.

.. APPELLANTS
[Original claimants]

VERSUS

- 1] National Insurance Co. Ltd.
Through its Br. Manager, Latur
- 2] M/s. Sharda Constructions
Barshi Gunj, Bhokar,
Dist. Nanded.
- 3] Prabhakar Shivdas Sangawe,
Age – Major, Occu. Driver,
R/o. Algarwadi, Tq. Chakur,
Dist. Latur.

.. RESPONDENTS

...

Mr.Ruturaj Patil, Advocate for the appellants.

Mr.V.N.Upadhye, Advocate for respondent no.1.

...

CORAM : S.G.DIGE, J.

Reserved on : 20.08.2022

Pronounced on : 22.09.2022

JUDGMENT :

1] Being aggrieved and dissatisfied by the judgment and award passed by the Motor Accident Claims Tribunal, Latur, the appellants – original claimants preferred this appeal for enhancement of the amount.

Brief facts of the case are as under:

2] On 12.07.2002 at about 8.45 a.m. the deceased Waman was proceeding to attend his school on motorcycle. When his motorcycle reached near village Murud on Latur-Barshi Road, a tipper having registration No. MH-26-B-7257 came from the opposite direction and gave dash to the motorcycle of Waman. Due to the said accident, Waman sustained several injuries and succumbed to death on the

spot. A crime was registered against the driver of the offending tipper.

3] The appellants filed claim petition before the Motor Accident Claims Tribunal, Latur for getting compensation [for short 'the Tribunal']. Considering the evidence on record and after hearing the parties, the Tribunal has awarded the compensation. Against the said judgment and order, this appeal for enhancement of compensation.

4] The learned counsel for the appellants submits that there are two main grounds raised in this appeal. These are [1] age of deceased was 35 years at the time of accident, the Tribunal has not applied proper multiplier as per the age of deceased, [2] future prospects and consortium amount is not considered by the Tribunal.

5] It is the contention of the learned counsel for the respondents that while awarding compensation, the Tribunal has considered all aspects. The evidence led by the

appellants is considered by the Tribunal. On that basis the compensation is awarded, hence, the order passed by the Tribunal is legal and valid.

6] I have heard both learned counsel. Perused the judgment and award passed by the Tribunal. The issues involved in this appeal are firstly, multiplier is not properly applied and future prospects and consortium amount are not considered. In respect of issue of multiplier, it has come on record that at the time of accident the deceased was 35 years age. The Tribunal has applied multiplier of 9. The Tribunal has observed that considering the age of deceased and ages of the complainant and dependency of the income of the deceased, 9 is proper multiplier. I am unable to understand how 9 multiplier is applicable on the dependency of the income and age of the complainant. The Hon'ble Apex Court in the case of **Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation & another** reported in **[2009] 6 SCC 121** has held about proper multiplier. As per the judgment of the Hon'ble Apex Court, the proper

multiplier for the age of the deceased i.e. 35 is 16. In respect of issue of future prospects and consortium, the Tribunal has not considered future prospects of the deceased. The Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & others**, reported in [2017] 16 SCC 680 has held that while determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below age of 40 years, should be made. In the present case, the deceased was a teacher. He was in permanent service, hence, I am considering 50% of additional income as future prospects. The Tribunal has awarded Rs.15,000/- as consortium and funeral expenses. I am considering it Rs.70,000/- under non-pecuniary head.

7] In view of the above reasons, the appellants are entitled for the following compensation:

Sr.No.	Particulars	Amount
01.	Salary of the deceased per month Less professional tax	Rs.9250/- - 175/-

02.	Net monthly salary	Rs.9075/- x 12
03.	Net one year salary Age of deceased 36 years, multiplier is 16.	Rs.1,08,900/- x 16
04.	Add : 50% towards future prospects	Rs.17,42,400/- + 08,71,200/-
05.	Less : ¼ deduction for personal use	Rs.26,13,600/- - 06,53,400/-
06.	Add : for loss of consortium and funeral expenses and estate.	Rs.19,60,200/- + 70,000/-
07.	Net compensation	Rs.20,30,200/-
08.	Less : Out of this, the appellants have already received an amount as per award i.e.	Rs.20,30,200/- - 6,54,000/-
09.	Remaining compensation amount payable Add : along with interest at the rate of 6% p.a. from the date of filing claim petition i.e. 01.08.2002 till realization of amount.	Rs.13,76,200/- + interest @ 6% p.a. from 01.08.2002 till realization of amount

8] In view of the above, I pass the following order:-

ORDER

i] The appeal is allowed.

ii] The appellants are entitled for the enhanced compensation of Rs.13,76,200/- along with interest @ 6% p.a. on enhanced amount from the date of filing of the application till realization.

iii] The respondents are directed to deposit enhanced amount within eight weeks. The appellants are permitted to withdraw the deposited amount.

iv] The appeal is disposed of accordingly.

[S.G.DIGE]
JUDGE

DDC