

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

FIRST APPEAL NO.690 OF 2004

Manjeetsingh Sarmukh Singh
aged 45 years, Occupation Business
Resident of Sant Kripa market
G.G.Road, Nanded.

.. APPELLANT
[Original Respondent No.1]

VERSUS

- 1] Ramesh s/o. Vishwanathrao Hurne
aged 49 Years Occupation business
Resident of Somesh colony, Nanded.
- 2] Mangalabai w/o. Ramesh Hurne,
aged 44 Years, Occupation Household
Resident of Nanded.
- 3] Dadamiyan alias Lalsha s/o.
Saranshah aged 30 Years
Occupation driver
Resident of Hatani Taluka Kandhar
District Nanded.
- 4] Sk. Shadulla s/o. Sk. Dade,
aged 40 Years Occupation driver
Resident of New Mondha, Nanded

.. RESPONDENTS

...
Mrs.A.N.Ansari, Advocate for the appellant.
Mr.G.N.Chincholkar, Advocate for respondent nos.1 and 2.

...

CORAM : S.G.DIGE, J.

Reserved on : 10.08.2022

Pronounced on : 21.09.2022

JUDGMENT :

1] Being aggrieved and dissatisfied by the judgment and award passed by the Motor Accident Claims Tribunal, Nanded, the appellant – original respondent no.1 has preferred this appeal.

Brief facts of the case are as under :-

2] On 2nd November, 1993 at about 10.20 a.m. the deceased Abhishek was returning from his school on his bicycle. At the relevant time the offending truck gave dash to his bicycle. Abhishek was fatally injured and died on the spot. Crime was registered against the driver of the offending truck.

3] Respondent nos.1 and 2 [original claimants] filed claim petition for getting compensation before the

Motor Accident Claims Tribunal, Nanded [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.

4] The issues involved in this appeal are the compensation given by the Tribunal is on higher side though the deceased was 12 years old and the offending truck was transferred by the appellant to respondent no.4. I deal with these issues one by one.

5] Compensation awarded on higher side :

It is the contention of the learned counsel for the appellant that the deceased was 12 years old. He was not having any income source, in spite of that, the Tribunal has considered notional income of deceased boy of Rs.24,000/- per year and has awarded the total compensation of Rs.3,00,000/-. It is exorbitant compensation. Whereas it is the contention of the learned

counsel for respondents that Abhishek was brilliant boy. He could have become an Engineer or Doctor. Respondent no.1 is B.E. [Mechanical] and runs a Oil Mill in Shivajinagar, Nanded. The family background of Abhishek is sound, hence, income considered by the Tribunal is proper.

6] I have perused the judgment and order passed by the Tribunal. The Tribunal has observed that the deceased Abhishek was student of a reputed English medium school. Father of the deceased i.e. respondent no.1 is a Mechanical Engineer. He runs a Oil mill. Considering the family background of deceased Abhishek might have taken higher education and deceased Abhishek had potentials to become a good professional. Accordingly, the Tribunal has considered his income as Rs.24,000/- p.a., in my view, the Hon'ble Apex Court in the case of **Kurvan Ansari alias Kurvan Ali and another Vs. Shyam Kishore Murmu and another** reported in 2022 [1] SCC 317 has held that in case of the death of a boy during age 10 to 15 years, notional income should be considered as Rs.25,000/- p.a. In

the present case, the Tribunal has considered Rs.24,000/- p.a., which is proper and income considered by the Tribunal is not on higher side.

7] In respect of issue of transfer of vehicle :

It is the contention of the learned counsel for the appellant that the appellant had transferred the offending vehicle to Sk.Shadulla Sk.Dade i.e. respondent no.4. The truck vehicle was given to Sk.Shadulla for a period of one year on contractual basis and agreement in that regard was executed in between the appellant and respondent no.4. Hence liability of paying compensation would not come on appellant but this fact was not considered by the Tribunal. In my view, without valid transfer of the vehicle or vehicle given on contractual basis cannot shift liability from shoulder of registered owner of vehicle. Section 50 of the Motor Vehicle Act states about transfer of ownership. This section provides that transfer of ownership of vehicle shall report to the registering authority within stipulated time. In the present case, vehicle was

given on contractual basis. No report was given to the registering authority. At the time of accident, the offending vehicle was in the name of appellant, unless it is proved that the registered owner has ceased to be the owner of the vehicle. He continues to be liable in the event of accident for the claim of third parties. The transfer of the ownership of vehicle cannot be effected unless it is communicated to the Regional Transport Office. Hence, the appellant is liable to pay compensation.

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

ORDER

- i] Appeal is dismissed.
- ii] No order as to costs.
- iii] Respondent nos.1 and 2 are entitled for withdrawal of the amount, if not withdrawn, deposited by the appellant.
- iv] First Appeal is disposed of accordingly.

v] In view of disposal of appeal, all pending civil applications are also disposed of.

[S.G.DIGE]
JUDGE

DDC