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

FIRST APPEAL NO. 2049 OF 2008

Smt. Ashabai Asaram Lohokare
Age : 47 years, Occ : Household,
R/o Sonai, Tq. Newasa,
Dist. Ahmednagar.

..APPELLANT

VERSUS

1. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Sarjepura, Ahmednagar.

2. Smt. Latabai Babasaheb Lohokare
Age : 23 years, Occ : Household,
C/o Eknath Sidhu Bhor,
R/o Nagapur, Tq. & Dist. Ahmednagar.

. ..**RESPONDENTS**

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Advocate for Appellant : Mr. Tushar Shinde h/f Mr.C.K. Shinde
Advocate for respondent no.1:Mr.Manoj Shinde h/f Mr. M.K. Goyanka
Advocate for respondent no.2 : Mr.Nilesh Bhagwat h/f Mr.S.D. Kotkar

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CORAM : S.G.DIGE, J.

DATE : 19.09.2022

ORAL JUDGMENT :

This appeal is filed for enhancement of compensation.

2. Brief facts of the case are as under :-

On 17th January, 2006, deceased Babasaheb sustained injuries in the accident and died in the hospital. The deceased was 24 years of age on the date of accident.

3. The claim petition was filed by appellant and respondent no.2 for getting compensation before the Member, Motor Accident Claims Tribunal, Ahmednagar (for short, "the Tribunal"). The Tribunal has awarded amount of Rs.4,74,900/- to the appellant and respondent no.2. Against the said judgment and order this appeal for enhancement of compensation.

4. It is the contention of the learned counsel for the appellant that the Tribunal has considered the monthly income of the deceased on lesser side. While awarding the compensation no proper multiplier is applied. The future prospects and consortium amount are not awarded. Hence requested to allow the appeal.

5. It is the contention of the learned counsel for the respondent no.1 that the deceased was farmer. On that basis, the notional income is considered by the Tribunal. While passing the judgment and order, the Tribunal has considered all the aspects. Hence the judgment and order passed by the Tribunal is legal and valid.

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

7. The issue involved in this appeal is, not application of proper multiplier and not awarding the amount of future prospects and consortium amount.

8. The Tribunal has considered the annual income of Rs.40,000/- of the deceased. It is the contention of the learned counsel for the appellant that bills of sugar factory and other documents were produced before the Tribunal to show the income of the deceased is around Rs.5 to 6 Lakhs

p.a. from agricultural land, but it was not considered by the Tribunal. The Tribunal has considered that the deceased was farmer and only supervisory charges have to be considered. The petitioner no.1 has stated about income of deceased, various bills of sugar factory are produced on record to show that the deceased was taking sugarcane crop. The Tribunal has observed that Exhibit-50 is receipt of sugar cane bill for the year 2002-2003, which shows that the deceased had provided sugarcane of Rs.22,140/-. Deceased was taking wheat crop in other land, hence, the Tribunal has considered the notional income of the deceased of Rs.40,000/- per annum. Considering the evidence on record, I do not find any infirmity in it.

9. The Tribunal has not awarded the amount towards future prospects, as per the view taken by the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***. The deceased was below 40 years of age and was self employed, hence he is entitled for

additional income of 40%. The consortium amount is not awarded. The appellant is the mother and respondent no.2 is the widow of the deceased. As per view taken by the Hon'ble Apex Court in the case of ***Magma General Insurance Company Ltd., Vs. Nanu Ram*** reported in ***2018 SCC Online SC 1546,*** both i.e. appellant and respondent no.1 are entitle for Rs.40,000/- each as consortium amount.

10. Admittedly, the proper multiplier is not applied by the Tribunal. From the record, it appears that at the time of accident, the deceased was 24 years old. In view of the judgment of the of the Hon'ble Apex Court in the case of ***Sarla Verma (Smt) and others Vs. Delhi Transport Corporation and another*** reported in ***(2009) 6 SCC 121***, in the present case, the multiplier of 18 is applicable.

11. In view of the above calculations, the appellant and respondent no.2 are entitle for the following compensation :-

Sr. No.	Heads	Compensation
1.	Monthly income (Rs.40,000/12)	Rs.3,333/-
2.	After adding future prospects (40% of Rs.3,333/- = Rs.1,333/- i.e. Rs.3333+ Rs.1,333)	Rs.4,666/-
3.	After 1/3rd deduction for personal expenses (Rs.4,666 X 1/3 = Rs.1,555) i.e. Rs.4,666 – Rs.1,555)	Rs.3,111/-
4.	Annual income (Rs.3,111 X 12)	Rs.37,332/-
5.	Multiplier of 18 (Rs.37,332/- x 18)	Rs.6,71,976/-
6.	After addition of loss of estate (Rs.15,000) + Consortium (Rs.40,000 X 2) + Funeral expenses (Rs.15,000) = Rs.1,10,000/-	Rs.7,81,976/-
7.	Total	Rs.7,81,976/-

12. The Tribunal has awarded amount of Rs.4,74,900/-. In view of the above calculations, the appellant and respondent no.2 are entitle for Rs.7,81,976/-. If this amount is deducted from already awarded amount of Rs.4,74,900/-, it would come to Rs.3,07,076/-.

13. The learned counsel for the appellant submits that the Tribunal has awarded 9% interest on the compensation amount, it should be given to the enhanced amount. The learned counsel for the respondent no.1 submits that as per the view taken by the Hon'ble Apex

Court in the case of ***Benson George Vs. Reliance General Insurance Company Ltd., and others*** reported in ***2022 SCC Online SC 238,*** the appellant and respondent no.2 are entitle to get 6% interest on the enhanced amount.

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

ORDER

(i) The appeal is allowed.

(ii) The appellant and respondent no.2 are entitle for enhanced amount of Rs.3,07,076/- @ 6% from the date of filing of the petition till its realization.

(iii) Respondent no.1 is directed to deposit the enhanced amount within eight weeks after receipt of the order.

(iv) The appellant and respondent no.2 are permitted to withdraw the deposited amount.

(v) The appeal is disposed of accordingly.

[S.G.DIGE]
JUDGE

SGA/-