

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

FIRST APPEAL NO.2923 OF 2008

New India Assurance Company Ltd.
Branch, Dhule.
Through its Divisional Manager,
Adalat Road, Aurangabad.

.. APPELLANT
[Orig.Resp.No.2]

VERSUS

- 1] Nandubai w/o. Shankar Gawit,
Age: 35 years, Occup. : Household.
- 2] Milka Shankar Gawit,
Age: 18 years, Occu. : Education.
- 3] Pritina Shankar Gawit,
Age : 16 years, Occu : Education.
- 4] Jagruti Shankar Gawit,
Age: 14 years, Occu : Education.
- 5] Shayani Shankar Gawit,
Age: 12 years, Occu : Education.
- 6] Abhishekh Shankar Gawit,
Age: 8 years.
- 7] Thagnya Bhika Gawit,
Age: 60 years, Occu : Nil.
[Deleted as per the Court's Order
dt.21.4.17]

All R/o. Lakkadkot, Post Khekada,
Taluka Nawapur, District Nandurbar.

[Respondent no.1 for myself and as
legal guardian & mother of
Respondent Nos.3, 4, 5 & 6]

8] Sakhubai Rahubhai Darbar,
Age: 36 years, Occu : Driver,
R/o. Jamnagar, Patel Colony, Plot No.9,
Taluka and District Jamnagar,
Saurashtra [Guj.].

9] P.S.Chandak,
Aged : Adult, Occupation Truck Owner,
R/o. Bada, Post Aliya,
District Jamnagar.
[Saurashtra] Gujarath.

..REPPONDENTS

...
Mr. S. Daanyaal Hussain, Advocate holding for
Mr.S.G.Chapalgaonkar, Advocate for the appellant.

Mr.Umesh Mitkari, Advocate holding for Mr.Mukul S.
Kulkarni, Advocate for respondent nos. 1 to 6

...

CORAM : S.G.DIGE, J.

DATE : 28.09.2022

ORAL JUDGMENT :

1] The issue involved in this appeal is non-
application of multiplier properly.

2] It is the contention of the learned counsel for
the appellant that at the time of accident the deceased was

42 years old. As per the view of 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, proper multiplier is 14. But the Tribunal has applied multiplier 15. It is wrong, hence, requested to allow the appeal.

3] It is the contention of the learned counsel for respondent nos. 1 to 6 that the Tribunal, while giving reasons, is mentioned that for the age group of persons of 40 to 45, multiplier 15 is applicable, and accordingly, the said multiplier is applied, which is proper.

4] I have heard both learned counsel. Perused the judgment and order passed by the Tribunal. The issue of non-application of proper multiplier is involved. The Hon'ble Apex Court in the case of **Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation & another** [supra] has held that for the age group of 41 to 45, 14 is proper multiplier. But the Tribunal has wrongly applied 15. On that basis, the calculations are done. Hence, I am considering 14

is proper multiplier as the deceased was 42 years at the time of accident. The Tribunal has given Rs.15,000/- under non-pecuniary head. Considering the above calculations, the respondent nos.1 to 7 are entitled for the following compensation :

Annual income	Rs.1,00,000/-
Multiplier 14 Rs.1,00,000/- x 14 = Rs.14,00,000/-	Rs.14,00,000/-
1/3rd Deduction Rs.14,00,000/- - 4,66,666 = Rs.9,33,334/-	Rs.9,33,334/-
Non pecuniary head	Rs.15,000/-
Total compensation	Rs.9,48,334/-
The Tribunal has awarded + NFL	Rs.9,65,000/- + Rs. 50,000/- ----- Rs.10,15,000/-
Tribunal awarded compensation of Considering above calculations the respondents are entitled for compensation of Total difference amount of	Rs.10,15,000/- - Rs. 9,48,334/- ----- Rs.66,666/-

The appellant is entitled for the refund of amount of Rs.66,666/-, while respondent nos.1 to 7 / original claimants are entitled for compensation of Rs.9,48,334/-.

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

ORDER

i] Appeal is partly allowed.

ii] Respondent nos.1 to 7 are entitled for compensation of Rs.9,48,334/- along with interest @ 7.5% per annum from the date of filing petition till its realization.

iii] Respondent nos.1 to 7 shall refund Rs.66,666/- to the appellant, if they have withdrawn entire award amount along with accrued interest thereon.

iv] Respondent nos.1 to 7 are permitted to withdraw the amount of Rs.9,48,334/- along with accrued interest thereon as per apportionment fixed by the Tribunal along with interest if amount is not withdrawn.

v] The appellant is permitted to withdraw the amount of Rs.66,666/- along with accrued interest thereon, if entire award amount is deposited before this Court / the Tribunal.

vi] Appeal is disposed of in above terms.

vii] No order as to costs.

[S.G.DIGE]
JUDGE

DDC