

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

FIRST APPEAL NO. 1509 OF 2022

- 1] Smt. Nandabai Bhaskar Mhaske,
Age: 53 years, Occu : Household.
- 2] Sandip Bhaskar Mhaske [Since died]
Through LR's
- 2-A Jayshree s/o. Sandip Mhaske,
Age: 38 years, Occu : Household.

Both R/o. Takali-Kazi,
Tq. Nagar, Dist. Ahmednagar.

.. APPELLANTS
[Orig. Claimants]

VERSUS

- 1] Balasaheb Shankar Thorath,
Age: Major, Occu:Business,
R/o. Yelur, Tq.Walwa,
Dist.Sangli 416 416
- 2] Shriram General Insurance Co. Ltd.
Through its Branch Manager,
E-8, RIICO Industrial area, Sitapura,
Jaipur 302 422 (Rajasthan).

.. RESPONDENTS
[Orig. Opponents]

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Mr.Umakant U. Wagh, Advocate for the appellants.
Mr.Avinash M. Reddy, Advocate for respondent no.1.
Mr.V.N.Upadhye, Advocate for respondent no.2.

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CORAM : S.G.DIGE, J.
DATE : 19.10.2022

ORAL JUDGMENT :

1] Being aggrieved and dissatisfied with the judgment and award passed by the Member, Motor Accident Claims Tribunal, Ahmednagar [for short 'the Tribunal'], the appellants – original claimants preferred this appeal for enhancement of compensation.

2] It is the contention of the learned counsel for the appellants that while awarding the compensation, the Tribunal has applied wrong multiplier. The Tribunal has awarded 15% future prospects. The parental consortium amount is not awarded. The learned counsel further submits that the deceased was 55 years old. The Tribunal has applied multiplier of 3 i.e. split multiplier. As per the view taken by 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, it should be multiplier of 11, hence, requested to allow the appeal.

3] It is the contention of the learned counsel for the respondents that proper multiplier is applied by the

Tribunal, the deceased was in service of MSRTC. His retirement age was 58. He had completed 55 years age. For his retirement, only three years were remained. Hence, multiplier of 3 applied by the Tribunal is proper. Hence requested to dismiss the appeal. The learned counsel for respondent no.2 relied upon the judgment in the case of **Chaya Dilip Tamte & Others Vs. Suresh Gurusidappa Karanje & another** reported in **2015 STPL 842 Bombay**.

4] I have heard all learned counsel. Perused the judgment and order passed by the Tribunal. The issues involved in this appeal are that non-application of proper multiplier, future prospects are not awarded and not awarding parental consortium. Admittedly, at the time of accident the deceased was 55 years old. The Tribunal has applied multiplier of 3 as his retirement age was 58. As per view of the Hon'ble Apex Court in the case of **Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation & another** [supra], for the age group of 51 to 55, multiplier is 11. The Hon'ble Apex Court in the case of

K.R.Madhusudhan and others Vs. Administrative Officer and another reported in [2011] 4 SCC 689 has held that for the age group of 51 and 55 proper multiplier is 11. Hence, I am considering multiplier of 11. As I am relying on the judgment of the Hon'ble Apex Court, hence, I am not considering the case law cited by the learned counsel for the respondents. The Tribunal has awarded 15% compensation for future prospects. The amount is mentioned as Rs.1970/-, the Tribunal has considered monthly income of deceased at Rs.29,560/- so 15% of it come the amount of Rs.4434/-. Hence, I am considering this amount. The Tribunal has awarded Rs.40,000/- consortium amount. There are two claimants, hence, I am considering Rs.40,000/- each as consortium.

5] Considering the above calculations, the appellants are entitled for the following compensation:-

01.	Monthly salary after deduction of income tax : Rs.30,460-900 = Rs.29560/-	Rs.29,560/-
02.	Addition of 15% future prospects	Rs.4434/-
03.	Total monthly income Rs.29,560 + 4434/- = Rs.33,994/-	Rs.33,994/-

04.	Total annual income Rs.33,994 x 12 = 4,07,928/-	Rs.4,07,928/-
05.	Two dependents so 1/3rd amount deducted towards personal expenses [Rs.4,07,928 – Rs.1,35,976/- = Rs. 2,71,952/-	Rs.2,71,952/-
06.	Age of deceased 55 years so 11 multiplier. Rs.2,71,952 x 11 = Rs.29,91,472/-	Rs.29,91,472/-
07.	Two dependents so consortium of Rs.40,000/- each.	Rs.80,000/-
08.	Towards loss of estate and funeral expenses Rs.15000/- each.	Rs.30,000/-
	Total compensation	Rs.31,01,472/-

So the appellants are entitled to the total compensation of Rs.31,01,472/-, which is rounded as Rs.31,01,480/-.

6] The Tribunal has awarded compensation of Rs.8,26,720/- inclusive of NFL amount @ Rs.9% interest. As per the calculation of this Court, amount comes to Rs.31,01,480/-, it enhanced to Rs.22,74,760/- @ 6% p.a. interest thereon. I am not interfering in the interest of 9% p.a. awarded by the Tribunal but the appellants are entitled for the interest @ 6% p.a. on enhanced amount i.e. Rs.22,74,760/-.

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

ORDER

i] Appeal is partly allowed.

ii] The appellants are entitled for total compensation of Rs.31,01,480/-. Out of total compensation amount, the appellants are entitled for Rs.8,26,720/- along with interest @ 9% p.a. from the date of filing of the application till realization of the amount. The appellants are entitled for the remaining amount of Rs.22,74,760/- along with interest @ 6% p.a. from the date of filing of the application till realization of the amount.

iii] The respondents are directed to deposit the enhanced amount along with accrued interest thereon within 8 weeks from today.

iv] The appellants are permitted to withdraw the deposited amount.

v] Appeal is disposed of accordingly.

[S.G.DIGE]
JUDGE