

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 3097 OF 2006

Smt. Sardarbee Aba Desai

..Appellant.

v/s.

Shri Rajaram Gunaji Holam

..Respondents

Mr. S.G.Thorat for the Appellant.

Ms. Poonam Mittal for the Respondent No.2.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 28th JULY, 2022.**

P.C.

1. The challenge in this appeal is to the judgment dated 8.9.2005 in Motor Accident Claim Petition No. 259 of 2004, passed by MACT Kolhapur. By the impugned judgment, the Claims Tribunal partly allowed the Claim Petition under Section 163A filed by the Appellant Claimants and awarded compensation of Rs.89,500/- with interest @ 9% per anum from the date of petition till final realization. Being aggrieved by the quantum of compensation awarded, the Claimant has filed this appeal.

2. The Appellant is the mother of deceased Husen Aba Desai, who died in a motor vehicular accident on 19.01.2004, involving truck bearing No. MH 09.Q.6114. The said truck was owned by Respondent No.1 and insured by Respondent No.2 Insurance Company. The

Appellant-claimant had alleged that the deceased was working as a salesman of Mixer Grinder and earning Rs.3000/- per month. The appellant claimed that she was fully dependent on the income of the deceased, and hence claimed compensation of Rs.3,14,000/- from the owner as well as the insurance company of the offending vehicle.

3. The Claims Tribunal, after considering the evidence on record observed that the deceased Husen Aba Desai had expired as a result of the injury sustained in the accident. The Tribunal observed that the deceased was 26 years of age, and considering notional income at Rs.15000/- per anum; deducting Rs.5000/- towards his personal expenses and applying multiplier of 8, the Tribunal computed loss of dependency to Rs.80000, in addition Rs.5000/- towards loss of love and affection and Rs.4500/- towards loss of estate and funeral expenses.

4. Learned Counsel for the Appellant as well as learned Counsel for the Respondent Insurance Company state that the Tribunal has erred in applying multiplier of 8 on the basis of the age of the Applicant, who is the mother of the deceased. It is well settled that the choice of the multiplier is determined by the age of the deceased. The learned Counsel for Respondent No.2 Insurance Company also concedes that the annual income ought to have been considered as Rs.40000/- per annum and 1/3rd should have been deducted towards personal expenses. In view of the statement made by the learned Counsel for the Appellant and the learned Counsel for the Respondent No.2 Insurance Company,

the compensation is computed as under:

Income of deceased	Rs.40,000/- per anum
Dependency (deceased was unmarried hence after deducting 1/3rd of income towards personal expenses)	Rs.26,000/-
Consider age as 26 years multiplier applicable is 18	Rs.26,666 x 18 + 4,79,988/-
Funeral Expenses	Rs.2000/-
Loss of Estate	Rs.2500/-
Total	Rs.4,84,488/-
Amount already awarded by the Tribunal is	Rs.89,500/-
Balance after deducting the amount already awarded.	Rs.3,94,988/-

Hence the Appellant claimant is entitled for compensation of Rs.3,94,988/- which is rounded to ,3,95,000/-.

5. The Respondent No.2 Insurance Company to deposit the excess amount with the Claims Tribunal, Kolhapur, within six weeks with interest @ 7 % per anum from the date of petition till final realization.
6. Appeal stands disposed of.

(ANUJA PRABHUDESSAI, J.)