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

**FIRST APPEAL NO. 1219 OF 2003
A/W
CROSS OBJECTIONS (ST) NO. 15798 OF 2010**

THE EXECUTIVE ENGINEER,
MECHANICAL DIVISION & OTHERS ... APPELLANTS
VERSUS
SMT. SULOCHANA BABURAO NILLE
& OTHERS ... RESPONDENTS

Ms. Pallavi Dabholkar, AGP for the State/Appellants.

Mr. V.B. Rajure, Advocate for Respondent Nos. 1 to 4.

CORAM: SANDEEP K. SHINDE, J.

RESERVED ON: 20 APRIL 2022

PRONOUNCED ON: 10 JUNE 2022

JUDGMENT:

1. Heard Ms. Pallavi Dabholkar, learned AGP for the State and Mr. V.B. Rajure, learned Counsel for respondent nos. 1 to 4 and cross objectionist. None appears on behalf of respondent nos. 5 to 9.

2. The impugned judgment and award, arises out of a claim made under Section 166 of the Motor Vehicles Act, 1988, by the respondent nos. 1 to 4. The first respondent is the mother; second is the widow; the third and the fourth are the minor sons, of the deceased Dasharath Nille. In, a-head-on collision, between the Dumper Truck and Ambassador Car, Dasharath Nille and Ashok Appasaheb Bombade, both died and three other sustained injuries.

3. The learned Tribunal, upon appreciating the evidence, recorded the finding that the accident occurred due to rash and negligent driving on the part of the driver of the Dumper as well as on the part of the driver of the Ambassador Car. Therefore, the learned Tribunal found that it was a case of composite negligence, attributable to both the drivers in the ratio of 50:50. The Dumper involved in the accident was owned by the State Government.

4. In the same incident, Ashok Appasaheb Bombade, who was travelling in the Ambassador Car also died. His legal heirs made a claim under Section 166 of the Motor Vehicles Act, 1988. The Tribunal granted the claim against the State. Against which, First Appeal No. 1218/2003 was preferred by the State of Maharashtra. The said First Appeal was dismissed by this Court by judgment and order dated 07.02.2007. The said judgment has attained finality, since, it was not challenged by the State.

5. The Appeal at hand, challenges the award passed in Motor Accident Claim Petition No. 626/1994, which calls for no interference because challenge to award in First Appeal No. 1218/2003, against the finding of composite negligence, has failed. This Appeal, seeks to challenge the same finding. It may be stated that the Appellant-State, does not dispute the amount of

compensation, awarded to the respondents/claimants. In that view of the matter, the First Appeal is dismissed.

6. In any case, the cross objections filed by respondent nos. 1 to 4, require consideration, inasmuch as, at the material time, the deceased Dasharath Nille was 39 years old and therefore, the learned Chairman of the Motor Accident Claim Tribunal awarded the compensation by applying multiplier of 12. Mr. Rajure, learned Counsel for the cross objectionist, submitted that in terms of the judgment in the case of **Sarla Verma Vs. Delhi Transport Corporation, (2009) 6 SCC 121**, approved in **United India Insurance Vs. Satinder Kaur, 2020 SCC Online SC 140**, the multiplier ought to be 15 and not 12. Herein, there is no dispute that, at the material time, the deceased was 39 years old and therefore, the multiplier indicated in column no. 4 of the Table prepared in **Sarla Verma** (supra) would be 15.

7. In consideration of these facts, the Cross Objections are partly allowed. In the result, the following order is passed.

O R D E R

- (i) First Appeal is dismissed.
- (ii) The Cross Objections are partly allowed in the aforesaid terms.
- (iii) The learned Chairman, Motor Accident Claims Tribunal, Satara, shall endeavour to draw the Award afresh, in Motor Accident Claim Petition No. 626/1994, in terms of this Order and shall recompute the compensation payable to the

original claimants, preferably within four weeks from the receipt of this Order.

- (iv) The Registry shall furnish a copy of this order to the Chairman, Motor Accident Claims Tribunal, Satara for its compliance.
- (v) First Appeal and the Cross Objections are disposed of in the aforesaid terms.

SANDEEP K. SHINDE, J.

VAIGANKAR
ESHA SAINATH

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