

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

FIRST APPEAL NO. 241 OF 2001

Smt. Parvati Dattatraya Shinde ..Appellant/Applicant.

v/s.

Zahir Nizam Yelurkar & Ors. ..Respondents

Ms. Akanksha Helaskar i/b. A.M.Kulkarni for the Appellant.

Mr. Devendranath Joshi for the Respondent No.3.

Ms. Sonal Rajput i/b. Anil Kumar Patil for the Respondent Nos.1 and 2.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 10th AUGUST, 2022.**

P.C.

1. The challenge in the present appeal is to the impugned judgment and award dated 7.12.2000 in Claim Petition No. 264 of 1994. By the impugned judgment, the Claims Tribunal, Sangli has awarded total compensation of Rs.80,000/- with interest @ 12% per annum from the date of petition till final realization.

2. Brief facts necessary to decide the appeal are as under.

The Appellants, who were the Claimants before the Claims Tribunal had filed a claim petition under Section 166 of the Motor Vehicles Act in view of death of Mr. Dattatraya Shinde in a motor

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vehicular accident on 18.12.1993, involving tractor trolley, which was duly insured by the Respondent No.3 Insurance Company. The Appellants being wife and children of the deceased, alleged that the accident was caused due to rash and negligent driving of the driver of the said Trolley Truck. The Appellants had alleged that the deceased was 55 years of age and was working as a Oilman and was drawing salary of Rs.3000/- per month. It is further stated that the deceased was also earning agricultural income of Rs.10,000/- to 15,000/- per annum. The Appellants claimed that they were solely dependent on the earning of the deceased and hence they filed petition under Section 166 of Motor Vehicles Act for compensation of Rs.2,50,000/-.

3. The Tribunal, upon considering the evidence on record held that the accident was caused due to rash and negligent driving by the driver of Tractor Trolley. The Tribunal considering the age of the deceased as 55 years, the Tribunal applied multiplier of 3 and upon deducting Rs.2.000/- per month towards personal expenses computed loss of dependency to Rs.72,000/-. The Tribunal awarded an amount of Rs.8000/- towards loss of consortium and loss of love and affection. The Tribunal thus awarded total

compensation of Rs.80,000/-. Being dis-satisfied with the quantum of compensated awarded by the Tribunal, the Appellants have filed this appeal.

4. Heard Ms. Helaskar for the Appellant, Ms. Rajput for the Respondent Nos.1 and 2 and Mr. Joshi for the Respondent No.3. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

5. The short point for consideration is whether the compensation awarded by the Claims Tribunal is just and reasonable.

6. It is not in dispute that the deceased Dattatraya Shinde, was 55 years of age as on the date of the accident. The evidence on record reveals that he was working as Oilman and was drawing salary of Rs.2438.47 per month. It is also in the evidence of PW1 that the deceased was an agriculturist and that he was getting agricultural income of Rs.10,000/- to Rs.15,000/- per month. The Claimant No.1 has admitted in the cross examination that she and her children continue cultivating the said agricultural land. Considering the said aspect, the Tribunal has considered the total

income of the deceased as Rs.3000/- per month, which includes the managerial skills of the deceased. It is seen that the Tribunal has deducted Rs.2000/- per month towards personal expenses of the deceased. Considering that total three members were dependent on the income of the deceased, 1/3rd of the income needs to be deducted towards personal expenses. Furthermore, the Tribunal was also not justified in applying multiplier of 3. The deceased was 55 years of age, hence as per the decision of the Honourable Supreme Court in *Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. 2009 ACJ 1298*, as well as *National Insurance Company Limited vs. Pranay Sethi & Ors., 2017) 16 SCC 680* the multiplier applicable is 11. In addition, considering that the deceased was a permanent employee 15% of actual salary needs to be added towards future prospects. In addition, the Claimants are also entitled for compensation of Rs.44,000/- each towards loss of spousal consortium and parental consortium, and an amount of Rs.16,500/- each towards funeral expenses and loss of estate. Hence the Claimants are entitled for compensation as under:

Sr.	Head	Amount Rs.
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i.	Annual Income of the Deceased	$3000 \times 12 = 36,000/-$
ii.	Total income after adding 15% towards future prospects Rs.3450/- per month	$3450 \times 12 = 41,400/-$
lii.	Deduction of 1/3rd towards personal expenses (Rs.1150 x12)	$41400 - 13800 = 27,600/-$
iv.	Multiplier Applicable is 11	$27600 \times 11 = 3,03,600/-$
v.	Loss of spousal and parental consortium	1,32,000/-
vi.	Funeral Expenses	16,500/-
Vii.	Loss of Estate	16,500/-
	TOTAL	4,68,600/-

7. Under the circumstances, it is held that the Appellants-Original Claimants are entitled for total compensation of Rs.4,68,600/- , which in my considered view is just and reasonable. Hence the Appeal is allowed. The Claimants are held to be entitled for compensation of Rs.4,68,000/- with interest @ 9 % per anum from the date of petition till final realization .

. The Respondent No.3 Insurance Company shall deposit the balance amount within six months.

. The Claims Tribunal shall pay compensation to the Claimants as per the award, on payment of additional Court fee, if any.

. Appeal stands disposed of.

(ANUJA PRABHUDESSAI, J.)