

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1129 OF 2018

SMT. VANDANA LALIT SHINDE AND OTHERS
VERSUS
AYUB AHMED PATEL AND OTHERS

...
Advocate for Appellants : Mr. Dattatraya R. Jayabhar
Advocate for Respondent No.3 : Mr. Ajit B. Kadethankar
...

CORAM : KISHORE. C. SANT, J.
DATE : 02nd NOVEMBER, 2023

PER COURT :

1. Heard learned advocates for the respective parties.
2. This appeal is filed seeking enhancement of amount of compensation and challenging the judgment and order dated 23/12/2011, passed by the learned Member, M.A.C. Tribunal, Ahmednagar, in M.A.C. Petition No.415/2005.
3. Main ground for challenge is that, while awarding compensation learned Member, M.A.C. Tribunal, has not granted compensation towards future prospectus. Learned advocate for appellants in support of his submissions has relied upon the judgments in case of *Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another*, reported in *AIR 2009 SC 3104*, *Smt. Sarla Dixit and Another Vs. Balwant Yadav and Others*, reported in *AIR 1996 SC 1274* and in case of *National Insurance Co. Ltd. Vs. Pranay Sethi*, reported in *2017 SCC OnLine 1270*. He thus,

submits that, now it is well settled that while computing just and fair compensation future prospectus are to be considered such as given in case of *Pranay Sethi* (supra). In the present case deceased was of 39 years age on the date of accident and future prospectus are required to be paid at the rate of 50%.

4. Learned advocate Mr. Kadethankar vehemently opposed the appeal submitting that in this case, judgment and order is passed in the year 2011 and the Tribunal has granted just and fair compensation. No illegality is committed while passing the award. The income of the deceased is rightly considered by the Tribunal and compensation of Rs.14,85,120/- was awarded. He further submits that if claimants are held to be entitled for future prospectus, still it should be made applicable from the date of judgment in *Pranay Sethi* (supra).

5. This Court has considered the rival submissions. In case of *Smt. Sarla Dixit and Another* (supra), the Hon'ble Apex Court has granted compensation considering the future prospectus. In present case, it is seen that submission in respect of 50% future prospectus was in fact made and argued before the learned Member, M.A.C. Tribunal, however, the same was not considered. This Court holds that the Tribunal ought to have considered the future prospectus while calculating amount of compensation.

6. In view of the same, this Court finds that the award

passed by the Tribunal needs to be modified. The Tribunal has awarded Rs.14,85,120/- towards compensation. This Court, therefore, holds that the award be modified by adding 50% amount on Rs.14,85,120/- which comes to Rs.7,42,560/-, towards future prospectus. Thus, the total compensation comes to Rs.22,27,680/-. The claimants are held entitled to Rs.7,42,560/- in addition to the compensation already awarded by the learned Member, M.A.C. Tribunal. Respondent Nos.2 and 3 to pay amount of Rs.7,42,560/- to the appellants, in addition to the earlier compensation, along with interest at the rate of 7.5% per annum from the date of appeal.

7. Appellants are also held entitled for Rs.70,000/- towards loss of estate and loss of consortium. Towards loss of estate and loss of consortium Rs.35,000/- were already awarded by the Tribunal. This Court awards Rs.35,000/- in addition to the amount already awarded by the Tribunal, towards loss of consortium and loss of estate.

8. Respondent Nos.2 and 3 to deposit the amount in this Court within a period of six weeks from today and the appellants / claimants shall be entitled to withdraw the same without making formal application. First appeal stands disposed off.

(KISHORE. C. SANT, J.)