IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 775 OF 2009

SHANTANU SHANKARSA DHUDUM
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Date: 2023.04.12 20:08:20 +0530

1. Mr. Annasaheb Pargonda Trikannavar,)
   Age : 45 years, Occu : Nil,)

2. Mrs. Kasturi Annasaheb Trikannavar)
   Age: 40 years, Occu : Household,)

   Both R/o. Abhaynagar, HADCO Colony,)
   Sangli.)….Appellants
   (Orig. Claiamtns)

Versus

1. Mr. Pandharinath Navnath Tikudave)
   Age : Major, Occu : Driver,)
   C/o. Mr. Vanvir K. Gada,)
   Vimal Paper Mart,)
   11/12, Mahavir Estate,)
   Andheri-Ghatkopar Link Road,)
   Sakinaka,)
   Andheri-Mumbai.)

2. Mr. Vanvir K. Gada,)
   Age: Major, Occu : Business,)
   R/o. Vimal Paper Mart,)
   11/12, Mahavir Estate,)
   Andheri-Ghatkopar Link Road,)
   Sakinaka,)
   Andheri-Mumbai.)

(Appeal stand dismised)
against Respondent Nos. 1 & 2)
vide Registrar Judicial-II)

order dated 22/10/2019))

3. Reliance General Insurance Corpn. Ltd.,)
A company registered under the Insurance Act,)
Having its Branch Office at -)
GEM Stone, Raobahadur Dagirao Vichare)
Complex, 517-A/2E, Near Central S. T. Stand,)
New Shahapuri, Kolhapur - 416002.) ….Respondents

(Orig. Opponents)

Mr. Sarthak Diwan a/w Ms. Akansha Helaskar i/b A. M. Kulkarni for the Appellants.
Mr. Pandit Kasar for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st MARCH 2023.

JUDGMENT :

1. By way of this appeal appellants/claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the appellants that while awarding compensation. The tribunal has not awarded future prospects, consortium amount, multiplier is not applied and the tribunal has awarded lumpsum amount of Rs. 2,50,000/- which is improper. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondents/insurance company that while awarding compensation tribunal has considered all the aspects and on that basis the tribunal has awarded the compensation which is proper. Hence, requested to dismiss the appeal.

4. I have heard both learned counsel, perused judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short 'the Tribunal'). It is the case of claimants that deceased was 28 years old at the time of accident and he was earning Rs. 5,850/- per month. He was working with one Gajanan Distributors, Sangli and used to earn salary of Rs. 3,850/- per month and in addition to that, he was also doing part-time tailoring work at his residence and additionally used to earn Rs. 2,000/- per month. To prove the income of deceased the tribunal has examined father of deceased Annasaheb Pargonda Trikannawar at Exhibit-'25'. He has stated that at the time of accident deceased Pravin was 28 years old, he was working in Gajanan Distributors, Sangli and was earning Rs. 3,850/- per month and he was also doing tailoring job and getting Rs. 2000/- per month as a

salary from Prince Men's Wear, Mahadev Nagar. In cross-examination this witness admitted that he has not produced documents to show that deceased was getting total salary of Rs. 5,850/- per month. In my view, it has come on record that deceased was skilled worker. He was doing the tailoring work and he was also doing the job in Gajanan distributors, Sangli. The father of deceased has produced the documents on record to show that deceased was working in Gajanan distributors, Sangli and was doing tailoring job but these documents are not exhibited, as no witnesses were examined to prove these documents. Though documents are not exhibited it doesn't mean that deceased was not doing any job at the time of accident. It is settled law that strict rules of evidence as applicable in criminal trial are not applicable in Motor Accident Claims matter. Considering evidence on record, I am considering his notional monthly income at Rs. 4,000/- per month. The tribunal has awarded lumpsum compensation of Rs. 2,50,000/- which is not proper. The tribunal has not awarded future prospects, consortium amount and has not applied multiplier. Hence, I am considering all these facts. In view of above the claimants are entitled for following compensation.

Notional Income per month	Rs.	Rs. 4,000/-
Add. 50% future prospects	Rs.	Rs. 2,000/-
Total Income per month	Rs.	Rs. 6,000/-
Annual Income Rs. 6000/- X 12	Rs.	Rs. 72,000/-
Less 1/2 towards personal expenses	Rs.	Rs. 36,000/-
Total Income	Rs.	Rs. 36,000/-
Rs. 36,000/- X 17 (Multiplier as deceased of age 28 years old)	**Rs.**	**Rs. 6,12,000/-**
Add: Funeral expenses	Rs.	Rs. 16,500/-
Add: Loss of Estate	Rs.	Rs. 16,500/-
Add. Consortium (44,000/- X 2 Claimants)	Rs.	Rs. 88,000/-
Total Compensation	**Rs.**	**Rs. 7,33,000/-**
Less Compensation Awarded by Tribunal	Rs,.	Rs.2,50,000/-
Enhanced Compensation	**Rs.**	**Rs. 4,83,000/-**

Considering above calculation. The claimants are entitled for enhanced compensation of Rs.4,83,000/-.

5. In view of above, I pass following order.

ORDER

i. Appeal is allowed,

ii. The claimants are entitled for enhanced compensation of Rs. 4,83,000/- @ of 7.5% P.A. interest along with accrued interest thereon, from filing of claim petition till realization of amount. Out of this amount Rs. 1,21,000/- is consortium amount, the claimants are entitled @ 7.5% P.A. interest from 1 October,2017 till realization of the amount.

iii. Respondents are directed to deposit enhanced amount alongwith accrued interest thereon, within six weeks after receipt of the order.

iv. The claimants are permitted to withdraw deposited amount.

(SHIVKUMAR DIGE, J.)