

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.565 OF 2023

- | | | | |
|---|-----------------------------------|---|-----------------------|
| 1 | Pappu Gangaram Yadav, |) | |
| | age about 39 years, |) | |
| | Occupation Service |) | |
| | (Father of the deceased) |) | |
| 2 | Laxmi Pappu Yadav, |) | |
| | age about 36 years, |) | |
| | Occupation Housewife, |) | |
| | (Mother of the deceased) |) | |
| | Both appellants are residing at |) | |
| | Narpoli Balajinagar, |) | |
| | near Hanuman Mandir, |) | |
| | Eknath Tawade Chawl, |) |Appellants |
| | Room No.7, Bhiwandi, Dist. Thane. |) | (Original Applicants) |

Versus

- | | | | |
|---|---------------------------------|---|--------------------------|
| 1 | Nadankumar Kailash Jha, |) | |
| | adult occupation not known, |) | |
| | 459, Room No.7, Ground Floor, |) | |
| | Ram Seth Building, Tadali Road, |) | |
| | Kamathar, Bhiwandi, |) | |
| | Dist. Thane, PIN 421302. |) | ..Respondent No.1 |
| | (Owner of Motor Tempo No.MH-04- |) | (Original Opponent No.1) |
| | GC-1056) |) | |
| 2 | Reliance General Insurance |) | |
| | Company Limited through its |) | |
| | Divisional Manager, |) | |
| | having their office |) | |
| | (Old Office address:- At Malhar |) | |
| | Theatre |) | |
| | Compound, Naupada, Gokhale |) | |
| | Road, |) | |
| | Thane 400 062, Thane West.) |) | |
| | New office address : |) | |

At 4th Floor, Chintamani Avenue,)
next to Virvani Industrial Estate,)
Western Express Highway,)
Goregaon East, Mumbai, PIN)
400063.)
(Insurer of Motor Tempo No. MH-04-)
GC-1056) Policy)
No.1110432334000600. Policy)Respondent No.2
valid from 25.3.2013 to 24.3..2014.) (Original Opponent No.1)

Ms. Rina Kundu, Advocate for the Appellant.

Ms. Poonam Mital, Advocate for Respondent No.2-Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th DECEMBER, 2023.

Oral Judgment :

1. By this appeal, appellants are seeking enhancement of compensation.

2. Learned counsel for appellant submitted that deceased was 7 years old. The Tribunal has awarded lumpsum compensation of Rs.2,00,000/- to the appellants which is on lower side. Learned counsel further submitted that the Tribunal has not awarded compensation under conventional head. Hence, requested to allow the appeal.

3. Learned counsel for respondent No.2-Insurance Company submitted that the Tribunal has considered notional monthly income of

deceased and on that basis, the Tribunal has awarded compensation which is proper and no interference is required in the judgment and order of the Tribunal.

4. I have heard both learned counsel, perused the judgment and award passed by the Motor Accident Claims Tribunal, Thane, (for short "the Tribunal").

5. Deceased was 7 years old. While calculating compensation, the Tribunal has considered his notional monthly income and awarded Rs.2,00,000/-. While calculating compensation, the Tribunal has not applied multiplier and compensation under conventional head has not been awarded. Hence, I am considering notional income including future prospects at Rs.30,000/- per annum. As per the view of Hon'ble Apex Court in the case of **Sarla Verma & Ors vs Delhi Transport Corp.& Anr. AIR 2009 SC 3104**, the multiplier should be 15, hence dependency comes to Rs.4,50,000/-. Tribunal has not awarded amount under the conventional head, I am considering it at Rs.50,000/-. So total amount of compensation is Rs.5,00,000/-. The Tribunal has awarded an amount of Rs.2,00,000/-, if this amount is deducted from the compensation of Rs.5,00,000/- which is considered by this Court, it comes to Rs.3,00,000/-.

6. Considering the above calculations, the appellants/claimants are entitled for following compensation :

Particulars		Amount
Dependency	Rs.	4,50,000.00
Notional Income per annum including future prospects Rs.30,000/-		
Age of the deceased 7 years, hence multiplier of 15 applied Rs.30000 x 15)		
Compensation under conventional head	Rs.	50,000.00
Total Compensation	Rs.	5,00,000.00
Compensation awarded by Tribunal	Rs.	2,00,000.00
Enhanced compensation payable	Rs.	3,00,000.00

7. In view of above, I pass the following order :

O R D E R

1. The appeal is allowed.
2. The appellants/claimants are entitled for enhanced compensation of Rs. 3,00,000/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
3. Respondent No.2-Insurance Company is directed to deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.

4. The appellants/claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.
8. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)