

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 838 OF 2016

The Secretary, Maharashtra State Road)
 Transport Corporation, Mumbai)
 (Owner of S.T.Bus No.MH-14/BT-2479))
 Through its Divisional Controller)
 (Orig. Opponent-Represented by)
 Divisional Controller, Satara Division,)
 Satara.)Appellant

versus

1. Shital Sachin Mane)
 Age : 24 years, Occu : Household,)
 2. Praniti Sachin Mane,)
 Age : 3 years, Occu : Nil,)
 3. Pritam Sachin Mane)
 Age : 1 year, Occu : Nil)
 4. Anandrao @ Ananda Krishna Mane)
 Age : 52 years, Occu.: Agriculture)
 5. Kalpana Anandrao @ Ananda)
 Krishna Mane,)
 Age : 49 years, Occu.: Household,)
 Nos.2 & 3, Minors through their)
 Guardian Mother – Claimant No.1)
 All R/o. Lonand (Kuranvasti),) (Claimants)/
 Tal. Khandala, District Satara.)Respondents

Mr. Yashodeep Pradeep Deshmukh with Ms. Vaidehi Deshmukh
 and Ms. Sonali Pawar, Advocate for the Appellant.
 Mr. Pramod Jagannath Pawar, Advocate for the Respondent Nos. 1
 to 5.

CORAM : S. G. DIGE, J.

DATE : 8th FEBRUARY 2023.

Judgment:

1. Being aggrieved and dissatisfied by the judgment and order passed by the Motor Accident Claims Tribunal, Satara, the appellant/original respondent No.2 preferred this appeal.

2. It is the contention of learned counsel for the appellant that the Tribunal has awarded 100% future prospects, which is improper. The deceased was self-employed, in spite of that, 100% future prospects are awarded. Learned counsel further submits that the Tribunal has awarded an amount of Rs.1,00,000/- for love and affection to each claimant which is excessive, and in addition, the Tribunal has awarded Rs.1,00,000/- to the wife of the deceased for love and affection which is exorbitant. Hence, requested to allow the appeal.

3. Learned counsel for the respondents/claimants submits that the Tribunal has awarded compensation on the basis of the evidence produced before the Tribunal. The order passed by the Tribunal is legal and valid.

4. I have heard both learned counsel, perused the judgment and order passed by the Tribunal.

5. In respect of issue of future prospects, admittedly, the Tribunal has awarded 100% future prospects. I am unable to understand, on which basis, the Tribunal has awarded 100% future prospects. As per the view of the Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)**, if the deceased was self employed, the future prospects should be considered as 40%. In the present case, the deceased was self employed, so the Tribunal should have considered 40% future prospects. Hence, I am considering 40% future prospects.

6. In respect of excessive amount for love and affection, the Tribunal has awarded Rs.1,00,000/- to each claimant for love and affection. As per the view of the Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)**, each claimant is entitled for consortium of Rs.40,000/-, Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate. So I am considering an amount of Rs.2,30,000/ and not Rs.6,00,000/- as awarded by the Tribunal. The Tribunal has

awarded compensation of Rs.21,62,168/-. Considering the above calculations, the amount comes to R.20,00,000/-. If Rs.20,00,000/- is deducted from the amount of Rs.21,62,168/- awarded by the Tribunal, it comes to Rs.1,62,168/-. The appellant is entitled for this amount.

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

ORDER

1. The appeal is allowed.
2. The appellant is permitted to withdraw the amount of Rs.1,62,168/- from the deposited amount along with accrued interest thereon, if entire amount is not withdrawn.

The appeal stands disposed of.

8. All pending applications, if any, stands disposed of.

(S. G. DIGE, J.)