

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 454 OF 2002

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| 1. Smt. Sunita Anil Jadhav. |) | |
| Age: 23 years, Occ: household |) | |
| 2. Kum. Shubhangi Anil Jadhav. |) | |
| age: 4, Occu: Nil. |) | |
| 3. Kum. Komal Anil Jadhav. |) | |
| Age: 1 ½ , Occ: Nil. |) | |
| 4. Smt. Kasabai Krishna Jadhav |) | |
| age: 52 years, Occu: household |)....Appellants | |
| | (Ori. Claimants) | |
| All R/o Bagani, Taluka Walva, District Sangli. |) | |

Versus

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|---|------------------|--|
| 1. Maharashtra State Road |) | |
| Transport Corporation Mumbai Central. |) | |
| 2. Shri Parshuram Anna Bhange |) | |
| age: 43 years, Occu: S. T. Driver of Masur, |) | |
| Tal. Karad, District: Satara; |) | |
| 3. Internal Insurance Fund, Co. Secretary, |) | |
| M.S.R.T.C. Vahatuk Bhavan, Fort Mumbai |)....Respondents | |
| | (Ori. Opponents) | |

Mr. Shekhar A. Ingawale for the Appellant.

Ms. P. M. Bhansali a/w Ms. Dharini Jain for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th NOVEMBER, 2023.

JUDGMENT. :

1. By this appeal, appellant is seeking enhancement of compensation.

2. It is contention of learned counsel for the appellant that tribunal has considered monthly income of deceased at Rs.3214/- per month but, while calculating compensation the tribunal has not applied multiplier and has not awarded future prospects and consortium amount to the appellants and has awarded lum-sum amount of Rs.2,50,000/- which is improper. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.1 that the tribunal has considered all the aspects while awarding the compensation, no interference is required in it. Learned counsel further submitted that appellant no.1 is getting pension of Rs.1100/- from the employer and tribunal has considered this fact and on that basis compensation is allowed. Hence no interference is required in the judgment an order passed by the tribunal.

4. I have heard both learned counsel. Perused judgment and order passed by Motor Accident Claims Tribunal, Kolhapur (for short "The Tribunal"). While considering income of deceased the tribunal has observed that the deceased was getting salary of Rs.3214/- per

month. While awarding compensation the tribunal has observed that, the counsel of defendant suggested the compensation of Rs.2,25,000/- maximum, on that basis the tribunal has awarded compensation of Rs.2,50,000/-. I am unable to understand the observations of the tribunal as tribunal has awarded lum-sum compensation amount on say of learned counsel for the defendant. The Tribunal has not applied his mind. The tribunal has not awarded the future prospect and not applied multiplier and has not given consortium amount.

5. It is contention of learned counsel for the respondent that amount of Rs.1100/- be deducted from the income of deceased as appellant no.1 is getting the said amount as pension. I do not see merit in the contention of learned counsel for the respondent as respondent has not preferred appeal against the judgment and order of the tribunal. Without any appeal this Court cannot consider the submissions regarding deduction of pension amount, at this stage. Learned counsel for the appellant submits that the accident occurred on 4th February, 1992 since then appellants are waiting for justice. Hence, this court may deduct the amount of Rs.1100/- from monthly

salary of Rs.3214/- of the deceased and can calculate the compensation on remaining salary. Considering the submission of learned counsel for the appellant, I am deducting Rs.1100/- from the salary from monthly income of deceased and on that basis appellants are entitled for following compensation.

CHART

Notional Income Per Month	Rs.	Rs.3214 - Rs.1100 (Pension) = Rs.2114/-
Add. 50% future prospects	Rs.	Rs.1057/-
Total Income per month	Rs.	Rs.2114/- + Rs.1057 = Rs. 3171/-
Annual Income	Rs.	Rs.3171 X 12 = Rs.38,052/-
Rs. 38,052/- X 16 (Multiplier) (Multiplier of 16 as he was 31 years old)	Rs.	Rs.6,08,832/-
¼ deduction for personal expenses\ (- Rs.1,52,208/-)	Rs.	Rs.1,52,208/-
Total expenses	Rs.	NIL
Deduction towards 25% contributory negligence	Rs.	NIL
Total	Rs.	Rs.6,08,832 – Rs.1,52,208 =Rs.4,56,624/-
Consortium (44,000 X 4 Claimants)	Rs.	+ Rs.1,76,000/-
Funeral Expenses	Rs.	Rs.16,500/-
Loss of Estate	Rs.	Rs.16,500/-
Total Compensation	Rs.	Rs.6,65,624/-
Less Compensation awarded by the Tribunal	Rs.	Rs.2,50,000/-
Enhanced Compensation	Rs.	Rs.4,15,624/-

6. Appellants/Claimants are entitled for total enhanced compensation of Rs.4,15,624/-

7. In view of above I pass following order.

ORDER

1. The first appeal is allowed.

2. The claimants are entitled for enhanced amount of Rs. 4,15,624 @ 7.5 interest per annum from the date of filling of petition till realisation of the amount. Out of this amount Rs. 2,09,000/- is towards consortium, the claimants are entitled 7.5 % interest on this amount from 1st November, 2017 till realisation of the amount.

3. Respondents are directed to deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.

4. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

The appeal stands disposed of

(SHIVKUMAR DIGE, J.)