

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.998 OF 2018

The Manager, }
The New India Assurance Co. Ltd., }
Shribag, At-Alibag, Taluka-Alibag, }
District-Raigad. } ...Appellant

Versus

1. Smt.Pragati Pradip Yerunkar }
2. Kum Prachi Pradip Yerunkar }
3. Kum.Prasad Pradip Yerunkar }
4. Smt.Sunanda Balkrishna Yerunkar }
All R/at Pui, Taluka-Roha, }
District-Raigad. }
5. Shri.Dipak Tukaram Mhaske }
R/at Mugavli, Taluka-Mangaon, }
District-Raigad. } ...Respondents

Mr.D.R. Mhadik, for the Appellant.
Mr.T.J. Mendon, for Respondent Nos.1 to 4.
Mr.Vivek Salunke, for Respondent No.5.

CORAM : S.G. DIGE, J.

DATE : 21 FEBRUARY 2023

JUDGMENT :-

. The issue involved in this Appeal is Application of wrong multiplier and awarding excess compensation under the head of future prospects and consortium.

2. It is contention of learned counsel for the Appellant that the Tribunal has passed pay and recover order which is improper.

3. The learned counsel for the Appellant further submits that deceased was 45 years old. The Tribunal has applied multiplier of 15 it should be 14. There is wrong Application of multiplier. The learned counsel further submit that the Tribunal has granted 30% future prospects it should be 25% future prospects. The learned counsel further submits that the Tribunal has awarded compensation under non-conventional head at Rs.2,25,000/- it should be Rs.40,000/- each to the Claimants with 10% increase. Hence, requested to allow the Appeal.

4. It is contention of the learned counsel for the Respondent-Claimants that while awarding the compensation the Tribunal has considered all the aspects on that basis compensation is awarded, no interference is required in it.

5. I have heard learned counsel for the Applicant, learned counsel for Respondent No.5 and learned counsel for the Claimants. Perused judgment and order passed by the Motor Accident Claims Tribunal (for short 'the Tribunal').

6. Admittedly, the deceased was 45 years old at the time of accident. The Tribunal has applied multiplier of 15. As per

view of *Sarla Verma & Ors. V/s. Delhi Transport Corp. & Anr.*¹ proper multiplier is 14. The Tribunal has awarded 30% future prospects. As per view of the Hon'ble Apex Court in case of *National Insurance Co. Ltd. V/s. Pranay Sethi*² the future prospects should be 25%. Hence, I am considering future prospects 25%. The Tribunal has awarded compensation under non-conventional head at Rs.2,25,000/-, it is on higher side. As per view of Hon'ble Apex Court in case of *Magma General Insurance Co. Ltd. V/s. Nanu Ram*³, each Claimants are entitled for Rs.44,000/- at 10% increase. There are four Claimants. I am considering an amount of Rs.16,500/- for funeral expenses and Rs.16,500/- for loss of estate.

7. The income of deceased considered at Rs.10,000/- per month. The yearly income comes to Rs.10,000/- x 12 = Rs.1,20,000/-. 25% future prospects carries to Rs.30,000/- total comes to Rs.1,50,000/- out of 1/4th amount deducted for personal expenses i.e. Rs.37,500/-. Income comes to Rs.1,12,500/-. If the multiplier of 14 is applied with the amount of Rs.1,12,500/- it comes to Rs.15,75,000/-. There are four Claimants. The consortium amount 4 X Rs.44,000/- = Rs.1,76,000/-. The funeral expenses and loss of estate comes to Rs.16,500/- each. i.e. Rs.33,000/-. Total comes to Rs.17,84,000/-. The Tribunal has awarded compensation of Rs.20,25,000/- if this

1 AIR 2009 SC 3104

2 2017 ACJ 2700 (SC)

3 2018 ACJ (SC)

amount deducted from the amount considered this Court i.e. Rs.17,84,000/-. The excess amount comes to Rs.2,41,000/-.

8. In view of above I pass following order.

ORDER

- (i) The Appeal is partly allowed.
- (ii) The Respondent-Claimants are entitled for the compensation of Rs.17,84,000/- @ 7.5% per annum from the date of the filing of the Claim Petition till realization of the amount.
- (iii) The Appellants are permitted to withdraw the excess amount of Rs.2,41,000/- along with accrued interest thereon.
- (iv) The Claimants are permitted to withdraw the amount of Rs.17,84,000/- along with accrued interest thereon if not withdraw earlier.
- (v) The statutory amount of Rs.25,000/- along with interest transmitted to the Tribunal, Mangaon, Raigad.
- (vi) The parties are at liberty to withdraw it as per Rule.
- (vii) The remaining award passed by the Tribunal stands confirmed.

(S.G. DIGE, J.)