

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1358 OF 2019

1. Smt. Mithilesh Narayan Sahani }
2. Miss Rubi Kumari Narayan Sahani }
3. Miss Neelam Kumar Narayan Sahani }
All are R/at Village Akbarpur, Post }
Mirzapur, District-Muzaffarpur, Pin- }
843103. }

...Appellants

Versus

1. Lirin Roadlines Pvt. Ltd. }
at Plot No.92, Taluka Bhiwandi, }
District-Thane. }
2. ICICI Lombard General Insurance }
Co. Ltd, Thr. Its Divisional Manger, }
Office at George Mansion, 1st Floor, }
Opposite Balubhai Petrol Pump, Thane }
(West) }
3. Shri. Sakharam Chindu }
R/at Karunj, Taluka-Maval, District- }
Pune. }

...Respondents

Ms.Rina Kundu, for the Appellants.
Mrs.Varsha Chavan, for the Respondents.

CORAM : S.G. DIGE, J.

DATE : 7 FEBRUARY 2023

JUDGMENT :-

. By way of this Appeal, the Appellants/Claimants are seeking enhancement of compensation.

2. The learned counsel for the Appellants submit that while awarding compensation the Tribunal has deducted 1/4th amount for personal expenses. There are three Claimants then it should be 1/3rd deduction. The learned counsel further submit that the Tribunal has awarded consortium amount only to the Claimant No.1-widow of the deceased and not to the two children. She relied on *Magma General Insurance Co. Ltd V/s. Nanu Ram*¹.

3. The learned counsel for the Respondents submits that while awarding the compensation the Tribunal has considered all the aspects and awarded the compensation. The Tribunal has passed legal and valid order.

4. I have heard both the learned counsel.

5. The issue involved in this Appeal is deduction for amount of personal expenses and awarding consortium amount. Admittedly, there are three Applicants, so the Tribunal should have deducted 1/3rd amount for personal expenses and not 1/4th. Hence, I am considering 1/3rd amount for personal expenses. The Tribunal has awarded consortium amount of Rs.40,000/- to the Applicant No.1 only as per the view of the Hon'ble Apex Court in the Case of *Magma General Insurance*

¹ 2018 ACJ 2782 (SC)

Co. Ltd. (Supra). Each claimant is entitled for Rs.40,000/- as consortium amount. There are two Applicants remained to awarded consortium amount, hence I am considering Rs.44,000/- each as consortium amount.

6. The Tribunal has not given future prospectus and consortium amount to the two children. Considering the above calculations, the Applicants are entitled for following compensation.

a)	Age of deceased 36 years		
b)	Income	Rs.4,500/-	
	Multiplier 15		
c)	Future Prospect @ 40% of income	Rs.1,800/-	
d)	Total Income	-----	Rs.6,300/-
e)	Deduction 1/3rd		Rs.2,100/-
f)	Remaining Income		-----
			Rs.4,200/-
I)	Dependency	Rs.4,200 x 12 months x 15 factor	Rs.7,56,000/-
II)	Consortium to three Applicants	Rs.44,000/- each	Rs.1,32,000/-
III)	Loss of estate		Rs.16,500/-
IV)	Funeral Expenses		Rs.16,500/-
		-----	Rs.8,77,000/-
	Tribunal Awarded		Rs.6,77,500/-
	Balance amount		Rs.2,43,500/-
	Enhanced difference	Amount	Rs.2,43,500/-

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

ORDER

(i) Appeal is allowed.

(ii) The Claimants are entitled for enhanced amount of Rs.2,43,500/- at the rate of 7.5% per annum from filing of Application till realization of the amount, out of this amount Rs.1,21,000/- is consortium amount. The Claimants are entitled @ 7.5% on this amount from 1st October 2017 till realization of amount.

(ii) The Respondents are directed to deposit enhanced amount along with accrued interest thereon within six weeks before the Tribunal, Thane.

(iii) The claimants are permitted to withdraw the said amount along with interest thereon.

(S.G. DIGE, J.)