

SHANTANU SHANKARSA DHUDUM

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Date: 2023.03.23 11:17:05 +0530

Iffco - Tokio General Insurance Co Ltd.,)
AFT House 2nd floor Lok bharti Complex Marol)
Maroshi Road, Andheri (E), Mumbai - 59)

Versus

1. Mr. Kashinath Mahadu Kule)
Aged 40 years Husband of the deceased)
2. Mr. Devash Kashinath Kule)
Aged 19 years, son of the deceased)
3. Kumari Devyani Kashinath Kule)
Aged 10 years daughter of the deceased)
Respondent No. 3 is the minor through)
Her father and next friend Mr. Kashinath)
Mahadu Kule)

All the residing at : Shahid Bhagat singh)
Nagar, R. No. 279, Kumbhar Wada Dharavision)
Mumbai : 400 017)

..Original
Applicant

4. Mr. Shakeel Dawood Farash)
June Pet Taluka : Murud, Dist. : Raigad - 402 401)
(Owner of the mini - door rickshaw)
No. MH-06-S-6312))

)...Org.
Opp. Party No.1

5. Mr. Vasant Bapu Kawale)

At : Darbar Road, Murud Jangira, Taluka : Murud)
Dist: Raigad)
(Owner of the tanker No. MCU - 9665))

...Opp.
Party No. 2
....Respondents

Ms. Shalini Shankar for the Appellant.
Mr. T. J. Mendon for the Respondents.

CORAM : S. G. DIGE, J.

DATE : 9th MARCH 2023.

JUDGMENT :

1. The issue involved in this appeal is income of deceased considered on higher side.
2. It is contention of learned counsel for the Appellant that deceased was maid, there was no permanent income of the deceased in spite of that, the tribunal has considered notional monthly income of deceased at Rs. 4,000/- per month which is on higher side.
3. Learned counsel further submits that the tribunal has awarded the consortium amount of Rs. 1,00,000/-. The amount Rs. 25,000/- for funeral expenses, and Rs. 30,000/- for loss of love and affection and Rs. 20,000/- for loss of estate which are on higher side.

Hence, requested to allow the appeal.

4. The learned counsel for the respondent/claimant submits that deceased was maid, she was earning more than Rs. 4,000/- per month, but tribunal has considered the proper monthly income of deceased. Hence, requested to dismiss the appeal.

5. I have heard both learned counsel, perused judgment and order passed by the Motor Accident Claims Tribunal, Mumbai (for short 'the Tribunal'). To prove the income of deceased AW-1 husband of deceased has stated that deceased was 34 years old at the time of accident, she was working as maid servant with five people and earning Rs. 6,800 per month. The salary certificates were produced on record. Considering the deceased was maid servant, the tribunal has considered notional monthly income of deceased at Rs. 4,000/- per month. I do not find any infirmity in it. The tribunal has awarded consortium amount of Rs. 1,00,000/- and Rs. 25,000/- for funeral expenses, Rs. 30,000/- for loss of love and affection and Rs. 20,000/- for loss of estate. As per the view of 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 Rs. 40,000/- per month with 10% increase i.e. Rs. 44,000/- each. It comes to Rs. 1,32,000/- and

Rs. 16,500/- for funeral expenses and Rs. 16,500/- for loss of estate, so total comes to Rs. 1,65,000/-. The tribunal has awarded compensation under conventional head on higher side but considering above calculations the amount of compensation awarded by the Tribunal is proper. I do not find any infirmity in it.

6. In view of above, I pass following order.

ORDER

- i. Appeal is dismissed. No order as to cost.
- ii. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon, if not withdrawn.
- iii. The statutory amount be transmitted to the tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.

(S. G. DIGE, J.)