

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 127 OF 2016**

The Secretary,)
Maharashtra State Road Transport)
Corporation Limited, Mumbai.)
(Owner of S.T.Bus No. MH-12/EF-6474))
Through its Divisional Controller)
(Orig. Opponent-Represented by)
Divisional Controller, Satara Division, Satara.)Appellant

Versus

1. Durga Dattatraya Gawde,)
Age : 30 years, Occu.: Household.)
2. Amruta Dattatraya Gawade,)
Age : 12 years, Occu.: Education.)
3. Abhishek Dattatraya Gawade,)
Age : 10 years, Occu.: Education.)
4. Ashwini Dattatraya Gawde,)
Age : 8 years, Occu.: Education,)
Nos. 2 to 4 Minors through their Guardian)
Mother-Claimant No.1.)
5. Subhash Patlu Gawde,)
Age : 60 years, Occu.: Agriculture.)
6. Kanhopatra Subhash Gawde,)
Age : 56 years, Occu.: Household,)
All R/o. Kurawali Bk. (Datta Nagar),)....(Orig. Claimant)/
Tal. Phaltan, District Satara.) Respondents

Mr. Yashodeep Pradeep Deshmukh,, Advocate for the Appellant.
Ms. Riddhi Natekar, Advocate for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 26th APRIL, 2023.

Oral Judgment :

1. The issue involved in this appeal is excessive compensation awarded under other heads.
2. It is the contention of learned counsel for the appellant that the Tribunal has awarded Rs.6,00,000/- for loss of love and affection, Rs.1,00,000/- as consortium and Rs.25,000/- for funeral expenses, it is excessive. Hence, requested to allow the appeal.
3. Learned counsel for the respondents/claimants submits that while awarding the compensation, the Tribunal has considered all the aspects and, on that basis, compensation is awarded. No interference is required in it.
4. I have heard both learned counsel, perused judgment and order passed by Motor Accidents Claim Tribunal, Satara (for short

“the Tribunal”). The Tribunal has awarded Rs.6,00,000/- for loss of love and affection, Rs.1,00,000/- as consortium amount and Rs.25,000/- for funeral expenses. In my view, the compensation awarded by the Tribunal is excessive 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 Rs.40,000/- as consortium amount, Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate. There are six claimants, the total of it comes to Rs.2,40,000/-, Rs.30,000/- for funeral expenses and loss of estate, it comes to Rs.2,70,000/-. If this amount is deducted from the amount of Rs.7,25,000/-, it comes to Rs.4,55,000/-. This is an excess amount. The appellant is entitled for this amount.

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

1. The appeal is allowed.
2. The appellant is permitted to withdraw Rs.4,55,000/- along with accrued interest thereon.
3. The claimants are permitted to withdraw the remaining deposited award amount along with accrued interest thereon.

4. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

The first appeal stands disposed of.

6. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)