

FIRST APPEAL NO. 596 OF 2020

Versus

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Mr. Himanshu Takle i/by Milind More, for Appellant.
Mr. Ajit V. Alange, for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 27th MARCH 2023.

JUDGMENT:

1. The issues involved in this Appeal is the Tribunal has awarded 50% future prospects instead of 40%.

2. It is contentions of the learned Counsel for the Appellant that the tribunal has awarded 50% future prospects it should be 40% as deceased was self employed. Learned Counsel further submits that learned Tribunal has awarded exorbitant and excessive compensation under other heads. Hence, requested to allow the Appeal.

3. It is the contention of the learned Counsel for Respondents-claimants that while awarding compensation learned Tribunal has considered all the aspects. On that basis compensation is awarded. Hence, no interference is required in it.

4. I have heard both learned Counsel. Perused judgment and order passed by the the Motor Accident Claims Tribunal, Alibag, Raigad (for short 'the Tribunal').

5. While considering the income of deceased, the Tribunal has considered notional monthly income of deceased at Rs.4,500/-. If, the Tribunal has considered notional income of deceased @ Rs.4,500/- then, the future prospects should be 40%, as per view of the Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi**¹ when the income of deceased considered as self-employed, 40% future prospects should be considered. Hence, I am considering 40% future prospects.

6. The Tribunal has awarded Rs.1 lakh for loss of consortium, Rs.1 lakh for loss of love and affection and Rs.1 lakh for loss of estate and Rs.25,000/- for funeral expenses.

7. In my view, these are on higher side and excessive as per the view of the Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. vs. Nanu Ram**² each claimant is entitled for Rs. 40,000/- as consortium amount, Rs.15,000/- funeral expenses and Rs.15,000/- for loss of estate.

8. Considering the above calculation, the claimants are entitled for following compensation:

1. 2017 ACJ 2700 (SC)
2. 2018 ACJ 278 (SC)

Particulars	Amount
Income	Rs. 4,500.00
40% future prospects	Rs. 1,800.00
Deduction towards personal expenses 1/3rd of Rs.6,300.00 comes to Rs.2,100.00. Therefore, Rs.6,300-Rs.2,100.00 comes to	Rs. 4,200.00
Yearly Income Rs.4,200.00 X12	Rs. 50,400.00
Rs. 50,400 X 17 (multiplier)	
Total income	Rs. 8,56,800.00
Loss of consortium Rs.40,000/- x 2(deprivation of protection and social security etc to widow)	Rs. 80,000.00
Loss of Estate	Rs. 15,000.00
Funeral Expenses	Rs. 15,000.00
Total Compensation	Rs. 9,66,800.00
For round up	Rs. 9,67,000.00

9. The Tribunal has awarded compensation of Rs.12,43,000/-, if this amount is deducted from the compensation amount considered by this Court, it comes to Rs.2,76,000/-. It is excess amount.

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

ORDER

- i. Appeal is allowed.
- ii. The claimants are entitled for compensation amount of Rs.9,67,000/- as per the interest given by the Tribunal.
- iii. The Appellant is permitted to withdraw excess compensation amount of Rs.2,76,000/- along with accrued interest thereon.
- iv. The claimants are permitted to withdraw award amount along with accrued interest thereon.
- v. The statutory amount along with interests be transmitted to the Tribunal.
- vi. The parties are at liberty to withdraw it as per rule.
- vii. Pending Applications, if any, disposed of.

(SHIVKUMAR DIGE, J.)