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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

30 FIRST APPEAL NO. 2522 OF 2023

SAKHUBAI NAMDEV TOKALWAD AND ANR

....Appellants

VERSUS

PARMESHWER HARIBA SHINDE AND ORS

.....Respondents

Mr. S. N. Janakwade, Advocate for the appellants

Mr. R. R. Imale, Advocate for the respondent No.2

CORAM : KISHORE C. SANT, J.

DATE : 03rd OCTOBER, 2024

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1. Heard the appeal.
2. By consent of the parties, this appeal is taken up for final disposal at the admission stage looking to the short point involved in this appeal.
3. The appellants are original claimants- parents of deceased minor of 4.5 years. The learned Member of MACT, Nanded has considered the notional income of Rs.24,000- per

year and deducted the 1/3rd amount towards personal expenses. The learned member thus awarded Rs.2,40,000/- by applying multiplier of 15. Further the amount is granted Rs.40,000/- for consortium. Rs.15,000/- towards funeral. Rs.2000/- towards transportation. Thus total amount awarded is Rs.2,97,000/-.

4. The learned advocate for the claimants/appellants relies on the judgment in the case of Kishan Gopal and Anr Vs Lala and others reported in 2014 (1) SCC page 244. He also relied on the judgment in the case of Meena Devi Vs Nanu Chand Mahto @ Nemchand Madhto and others reported in 2023 (1) SCC 204. He also relied on the judgment of this court dated 23-07-2024 in the case of Sakharam Jagannath Avhad and Anr Vs Rajendra Sahebrao Ghule and Anr. He submits that in the case of *Meena Devi (supra)* it is decided in the case of minors the compensation is fixed to Rs.5 lakhs. The Hon'ble apex court has considered the income of child to be Rs.30,000/- including future prospect and applying the multiplier of 15 the

loss of dependency comes to Rs.4,50,000/- and added Rs.50,000/- under conventional heads, total of which comes to Rs.5,00,000/-. Based on the said judgment this court also decided the first appeal No. 134/2021 and directed to pay an amount of Rs.5,60,000/- towards additional expenses.

5. The learned advocate for the respondents vehemently opposed the appeal by relying upon the judgment in the case of Kurvan Ansari Alias Kurvan Ali and Anr Vs Shyam Kishore Murmu and Anr reported in AIR Online 2021 SC 1029. He submits that in the said case notional income of the deceased was assessed Rs.25,000/- per year & by applying multiplier of 15 the amount comes to Rs.3,75,000/- towards loss of dependency was taken. Rs.40,000/- each was granted towards consortium and Rs.15000/- towards funeral expenses. The court thus granted total amount of Rs.4,70,000/-.

6. This court has considered both the judgments, but in the present case deceased was 4.5 years though both the parents

are entitled to consortium only Rs.40000/- as awarded towards consortium to both the parents instead of Rs.80000/-.

7. Considering the above position and relying on the judgments in the case of *Kishan Gopal (supra)* this court is allowing the appeal in the following terms.

ORDER

a] The appeal stands partly allowed.

b] The appellant shall be entitled to receive Rs.4,50,000/- by considering the annual income of Rs.30,000/- and additional Rs.50,000/- under conventional heads, thus total Rs.5,00,000/- with interest @ 7.5% from the date of filing of the claim petition. There is no dispute that amount of Rs.2,97,000/- is already paid to the claimants.

c] The respondent insurance company shall pay remaining amount to the appellants alongwith

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interest within twelve weeks from today in the office of this court. After such amount is deposited the appellants are entitled to withdraw the said amount without requiring any formal application.

d] The appeal stands disposed off.

[KISHORE C. SANT, J.]

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