



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

15 FIRST APPEAL NO. 1906 OF 2023
WITH
CIVIL APPLICATION NO. 5565 OF 2023
IN FA/1906/2023
WITH
CIVIL APPLICATION NO. 10102 OF 2023
IN FA/1906/2023

JAYSHRI UMAKANT MUNDE AND ANR
VERSUS
RAMRAO BABURAO MUNDE AND ORS

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Advocate for Appellant : Mrs. Lomte Ashwini Annasaheb
Advocate for Respondents 1 & 2 : Mr. R.B. Dhakne h/f. Mr. S.G. Mundhe
Advocate for Respondents 2 & 5 : Mr. M.R. Deshmukh
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CORAM : KISHORE C. SANT, J.
Dated : July 10, 2024

PER COURT :-

1. Heard the parties. This appeal arises out of the judgment and award passed by the learned Member, Motor Accident Claims Tribunal, Ambajogai dated 9.2.2023 in MACP No. 39/2020. The appeal is filed by the wife and son of the deceased Umakant Munde, who died in an accident, only to the extent of apportionment of the amount of compensation.

2. By way of the impugned judgment and award, the learned Member of Tribunal awarded total compensation of Rs. 54,95,730/- to the original claimants along with interest at the rate of 7% p.a. from the date of claim petition. The above amount is awarded as per the diversification given below :-

1.	29,513 + 50% future prospect = 44,269.5 rounded up to 44,270 - 1/4th = 33,202.50 rounded up to 33,203.
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2.	$33,203 \times 12 = 3,98,436$ annual dependency
3.	$3,98,436 \times 16 = 63,74,976$ total compensation
4.	$63,74,976 - 15\% = 54,18,729.6$ rounded up to 54,18,730/- 15% is the contributory negligence of the deceased. The respondents are further liable to pay compensation towards loss of estate, loss of consortium and further expenses i.e. = 77,000/- (15,000 + 40,000 + 15,000) = 70 + 10% in view of judgment of Pranay Sethi = 77,000/-. The final compensation amount payable by respondents is 54,95,730/-.

3. Out of the said amount claimant No. 1 (wife) is given Rs. 20,00,000/-, claimant No. 2 (minor son) is Rs. 10,00,000/-, claimant No. 4 (mother) is given Rs. 10,00,000/- and claimant No. 3 (father) is given Rs. 14,95,730/-. Certain amounts are directed to be invested in fixed deposit. In case of claimant No. 1/wife, Rs.10,00,000/- is directed to be invested in fixed deposit for the period of five years. In case of claimant No. 2/minor son, amount of Rs.10,00,000/- is directed to be invested in fixed deposit till he attains the majority. For claimant No. 4/mother, Rs.4,00,000/- is directed to be invested for the period of three years and in case of claimant No. 3/father Rs.8,00,000/- are directed to be invested for the period of three years.

4. After hearing the parties, this Court finds that the minor son who is only 10 years of age as on the date of filing of the appeal is given only Rs. 10,00,000/- when that minor son has to take education and has to live life with certain standards. So far as claimant No. 4/mother is concerned, amount of Rs.10,00,000/- is awarded which this Court finds to be proper and reasonable. So far as claimant No. 3/father of the deceased is

concerned, this Court finds that at the age when he has crossed 60 years of age, he would not require this much amount and it would be proper to reduce the amount of compensation to the father to Rs. 4,95,730/- and transfer amount of Rs.10,00,000/- to award Rs.20,00,000/- to claimant No. 2/minor son of the deceased who requires that amount for his well being and school education etc. So far as the amount of interest is concerned, the claimant no. 2 shall get the interest on the said amount on yearly basis which shall be transferred in the account of claimant No. 1/wife. This Court, therefore, modified the award as below.

ORDER

1. Respondent No. 1 to 3 do jointly and severally pay compensation amount of Rs.54,95,730/- along with interest at the rate of 7% per annum from the date of claim petition until its realization.
2. The amount of compensation shall be paid to the claimants as under.
 - a) An amount of Rs.20,00,000/- along with interest be paid to claimant No. 1 out of which Rs.10,00,000/- be invested in any nationalize bank for the period of 5 years without any encumbrance and not withdrawable unless prior permission of the court.
 - b) An amount of Rs.20,00,000/- along with interest be invested in any nationalize bank in the name of claimant No. 2 until he attains majority. The amount of interest is concerned, the claimant No. 2 shall get the interest on the said amount on yearly basis which shall be transferred in the account of claimant No. 1.
 - c) An amount of Rs.10,00,000/- along with interest be paid to claimant No. 4 out of which Rs.4,00,000/- be invested in any nationalize bank for the period of 3 years without any encumbrance

and not drawable unless prior permission of the court.

d) An amount of Rs.4,95,730/- along with interest be paid to claimant No. 3. So far as claimant No. 3/father is concerned, there is no need to invest aforesaid amount in fixed deposit.

3. The award is modified accordingly and fresh award be prepared as above. The first appeal stands disposed of. In view of the disposal of the first appeal, civil applications, if any, stand disposed of.

(KISHORE C. SANT, J.)

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