IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1191 OF 2024

Magma HDI General Insurance Company Ltd
Versus
Babasaheb Appa Shinde And Another
...
Mr. S.S. Patil h/f Mr. R.H. Dahat advocate for appellant.
Mr. S.R. Zambre, advocate for respondent nos.1 and 2.
Mr. Fayaz K Patel advocate for respondent no.3.
....
WITH
CIVIL APPLICATION NO. 4451 OF 2025 IN FA/1191/2024

Babasaheb Appa Shinde And Another
VERSUS
Magma Hdi General Insurance Company Ltd And Another
...
Advocate for Applicant : Mr. S.R. Zambare
Advocate for Respondents : Mr.S.S. Patil h/f R.H. Rohit For R/1
Adv Patel Fayaz K For R/3
...

CORAM : S. G. CHAPALGAONKAR, J.
Dated : April 28, 2025

FINAL ORDER :-

1. Heard learned advocates appearing for the respective parties.

2. The original respondent no.2/insurer filed present appeal assailing the judgment and award dated 5.5.2022 passed by the Motor accident Claims Tribunal, Ahmednagar in MACP no.468 of 2018. It is not disputed that deceased Suresh, who was a bachelor died in motor vehicular accident dated 6.8.2018 involving the insured tempo bearing registration

No.MH-12/HD-3795. The claimants/parents of the deceased filed MACP no.468 of 2018 under section 166 of the Motor Vehicles Act raising claim for compensation. The Tribunal, after considering rival submissions and evidence on record passed an award for Rs.15,16,000/- in favour of the claimants alongwith the interest @ 6% p.a.

3. Mr. Patil, learned advocate appearing for the appellant vehemently submits that Tribunal committed serious error while composition of the compensation. According to him, deceased was a Bachelor and self employed person. Future prospects in such case shall not exceed beyond 40%. He would further point out that age of the deceased as per date of birth proved on record was about 28 years. Therefore, multiplier of '17' would apply. He would submit that loss of love and affection and loss of consortium both are considered by the Tribunal while assessing the compensation. However, it is trite that once loss of consortium is granted, separate compensation under head of loss of love and affection would not be admissible. On these three counts, Mr. Patil would urge that compensation needs to be reworked.

4. Per contra, leaned advocate appearing for original claimants supports impugned judgment and award. According to him, Tribunal has assumed notional earning of deceased @ Rs.6,000/- p.m. although it could have been Rs.9,000/- to Rs.10,000/- p.m. If notional earning of claimant is corrected even after reducing on points urged by appellant, compensation would be same as awarded by the Tribunal.

5. Having considered submissions advanced, it can be observed that Tribunal discarded evidence of CW 2 Devidas and found that there is no acceptable evidence as to income of the deceased. Therefore, finally assessed notional income @ Rs.6,000/- p.m. In absence of any contrary material, Tribunal is justified in considering notional income @ Rs.6,000/- p.m. There is no basis to assume same as urged on behalf of the claimants.

6. The Hon'ble Supreme Court of India in case of **Sarla Verma & Ors. Versus Delhi Transport Corporation and Ors. (2009)6SCC121** and **National Insurance Company Limited *Versus* Pranay Sethi & Ors. reported (2017)16 SCC 680** have laid down that, in case of a bachelor son, 50% amount needs to be deducted towards his personal and living expenses. Further, multiplier has been provided for particular age group. For the age group of 25 to 30 years, multiplier of '17' has been fixed.

7. In the present case, Tribunal has wrongly applied multiplier of '18' when deceased was aged about 28 years at the time of his death. So far as future prospects is concerned, when deceased was self employed person, 40% amount needs to be added considering his age. It is further settled that once compensation is granted towards loss of consortium, separate compensation towards loss of love and affection would not be admissible. In light of the aforesaid exposition of law, the compensation needs to be re-assessed as shown below in tabular form :-

Sr. No.	Heads	Amount
1.	Annual income of the deceased Rs.6,000 x12	Rs.72,000/-
2.	Addition of 40% towards future prospects (Rs. 72,000 + 28,800) =	Rs.100,800/-
3.	Deduct ½ towards personal and living expenses.	Rs.50,400
4.	Multiplier of ‘17’ 50,400 x 17=	Rs.8,56,800/-
5.	Funeral and loss of estate (Rs.15,000/- each)	Rs.30,000/-
6.	Loss of Consortium (Rs.40,000 x 2)	Rs.80,000/-
	Total : -	Rs.9,66,800/-

8. In view of the aforesaid calculations, the award passed by the Tribunal needs to be appropriately modified.

9. In the result, following order is passed :-

O R D E R

i. First Appeal is **partly allowed**.

ii. The opponent nos.1 and 2 are jointly and severally liable to pay the compensation amount of Rs.9,66,800/- (Rs. Nine Lakh sixty six thousand eight hundred) to the claimants alongwith interest @ 6% p.a. from the date of claim petition till realization of the amount.

iii. The amount deposited by the Insurance Company be disbursed to the claimants in accordance with the modified award and balance amount, if any, be refunded to the appellant/insurer.

iv. First Appeal accordingly stands disposed off.

v. In view of the order passed in First Appeal, civil application does not survive for consideration and stands disposed off.

(S. G. CHAPALGAONKAR, J.)

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aaa/-