

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1904 OF 2010

1	Sunita Anil Patil Age-42 years, Occu.-Housewife	))	
2	Mrunali Anil Patil Age – 11 years, Occu – Education	))	
3	Raj Anil Patil Age – years, Occu-Education	))	
4	Shantabai Ramchandra Patil Age 61 years., Occu – Nil	))	
a	Adhik Ramchandra Patil	)	
b	Sunil Ramchandra Patil All are R/o. At post Kolewadi, Tal, Karad, Dist. Satara.	))))	Appellants (Original Claimants)
	Versus		
1	Maharashtra State Regional Transport Corporation Divisional Controller M.S.R.T.C. Satara Division, Satara	))))	
2	Vasant Sakharam Madane An adult, Occu. S. T. Driver, At Post-Gosawewadi, Post-Helgaon, Tal. Karad, Dist.Satara	)))))	
3	Anandrao Vishnu Pawar, An adult, Occu.-Rickshaw Driver, At Post-Banwadi, Tal-Karad, Dist.-Satara.	))))	
4	Manager, New India Assurance Co., Karad Branch.	)))	Respondents (Original Opponents)

Digitally
signed by
SHUBHADA
SHANKAR
KADAM
Date:
2024.02.02
16:02:20
+0530

Mr. T. J. Mendon, Advocate for the Appellants.

Ms. P. M. Bhansali, Advocate for Respondent Nos.1 to 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd JANUARY, 2024.

Oral Judgment :

1. This appeal is preferred by the appellants/claimants for enhancement of compensation.

2. It is contention of learned counsel for the claimants that while awarding compensation, the Tribunal has deducted 1/3rd amount for personal expenses, there are four claimants, it should be 1/4th. Learned counsel further submitted that the Tribunal has not awarded future prospects. Deceased was a teacher. The Tribunal should have awarded 50% future prospects but it is not awarded. Learned counsel further submitted that the Tribunal has awarded consortium amount on lower side. Learned counsel submitted that the Tribunal has deducted Rs.5,76,000/- from the total compensation amount of Rs.14,22,720/- as claimants are getting pension, which is not proper. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.1-Corporation that while calculating compensation, the Tribunal has applied multiplier of 16, it should be 15. Learned counsel further submitted that while passing judgment and order, the Tribunal has considered all the aspects, no interference is required in it.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Karad (for short "the Tribunal").

5. It is the claimants' case that deceased was working as teacher in Vittalrao Deshmukh High School, Ganje, of Rayat Education Sanstha and he was getting salary of Rs.11,115/- per month, while awarding compensation Tribunal has deducted 1/3rd amount for personal expenses. There are four claimants, it should be 1/4th deduction for personal expenses.

The Tribunal has not awarded future prospects. As per the view of Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi , 2017 ACJ 2700(SC)**, the claimants are entitled for 50% future prospects as the deceased was working as permanent employee.

At the time of accident, deceased was 37 year old, hence the multiplier of 15 should have been applied, instead of 16. I am considering the multiplier of 15.

The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in **Magma General Insurance Co. Ltd. Vs. Nanu Ram, 2018 ACJ 2782 (SC)**, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18000/- for funeral expenses and Rs.18,000/- for loss of estate. There are four claimants, so the total comes to Rs.2,28,000/-

While awarding compensation, the Tribunal has observed that the claimants may get pension of Rs.3,000/-, on that count, the Tribunal has deducted Rs.5,76,000/- from the total compensation amount of Rs. 14,22,720/-. The Hon'ble Apex Court in the case of **Helen C. Rebello and ors. Versus Maharashtra State Road Transport Corporation and anr. reported in 1999 ACJ 10** has held that pension amount cannot be deducted while calculating compensation. Hence, I am considering the amount of Rs.5,76,000/-.

Considering the above calculations, the claimants are entitled for following compensation :

Particulars		Amount
Monthly Income	Rs.	11115.00
Add : 50% future prospects	Rs.	5557.50
	Rs.	16672.50
1/4th deduction for personal expenses	Rs.	4168.00
	Rs.	12504.50
Rs.12,504.50 x 12 (months) x 15 (multiplier) as deceased was 37 year old	Rs.	2250810.00
Loss of Consortium (Rs.48,000/- x 4 claimants)	Rs.	192000.00
Funeral expenses	Rs.	18000.00
Loss of Estate	Rs.	18000.00
Total Compensation	Rs.	2478810.00
Compensation awarded by Tribunal	Rs.	921720.00
Enhanced Amount	Rs.	1557090.00

The claimants are entitled for enhanced amount of Rs.15,57,090/-.

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

O R D E R

1. The appeal is allowed.
2. Appellants/claimants are entitled for enhanced compensation of Rs.15,57,090/-/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.2,28,000/- is consortium amount, the claimants are entitled for interest @ 7.5% on this amount from 1st November 2017 till realisation.
3. The Respondent No.1-Corporation shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.
4. Appellants/claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.

The appeal stands disposed off.

7. Pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)