

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.938 OF 2001

Sau.Rupal Phiroz Satarawala Appellant
V/s.

Dhondiram Tayappa Nerle & Ors. Respondents

Mr.Harshad P. Nahata, for the Appellant.
Ms.S.S. Dwivedi, for Respondent No.3.

CORAM : ARUN R. PEDNEKER, J.

DATE : 20th JUNE 2024

P.C:-

. Heard learned counsel for the parties.

2. The only issue raised by the Appellant in this case is that in the Claim filed by the son of the deceased has been granted Rs.40,000/- as compensation. The present Appellant who is the daughter is granted Rs.10,000/- as compensation and the total quantum is of Rs.50,000/-. He submits that both the siblings ought to have been equitably granted Rs.25,000/- each.

3. The brief facts leading to the filing of the case can be summarized as under:

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On 25th April 1990 the deceased-pillion rider on a scooter bearing No.MXX-9611 met with an accident with a truck coming from the opposite direction. The pillion rider Rekha died on the spot. Independent Claim Petitions were filed by the son Santosh Suresh Modi, age 21 years and another by the daughter Rupel Phiroz Satarwala, age 26 years seeking compensation before the Motor Accident Claims Tribunal.

4. Both these Petitions were taken up together and the son was granted a compensation of Rs.40,000/- where as the daughter-Appellant was granted compensation of Rs.10,000/-. Challenging the above order passed by the Claim Tribunal, the learned counsel appearing for the daughter in Original Claim Petition has filed First Appeal No.92 of 1992. It is to be noticed, at the outset, she has not challenged the order passed in MACP No.386 of 1990. His contention is since the son is granted Rs.40,000/- and she being granted Rs.10,000/- the parity is not maintained and both of them ought to have been granted Rs.25,000/- each and she is not seeking any further enhancement of the compensation. On perusing the award passed by the

Tribunal it is apparent that the son of the deceased was 21 years of age at the time of accident was granted maintenance @ Rs.500/- per month i.e. Rs.6,000/- a year and it was held that the dependency of the son cannot be more than four to five years. As such it was held that the son Santosh would be working after four years was granted compensation of Rs.30,000/- towards loss of income and Rs.10,000/- towards love and affection. Where deciding the Claim Petition of the Applicant- daughter the Tribunal has observed that she is a married daughter and her husband was a Medical Officer as such she is not a dependent. However, taken into the consideration the loss of love and affection Rs.10,000/- is awarded to the daughter.

5. The contention of the learned counsel appearing for the Claimant-daughter for maintaining parity between the sibling for granting compensation by giving Rs.25,000/- for each sibling cannot be accepted since first he has not challenged the award in the Claim Petition filed by the son i.e. MACT No.386 of 1990, so also factors influencing the grant of compensation to the son and the daughter are entirely different. The Tribunal has

held that the son is dependent for four or five years on the mother and the Tribunal has also held that the daughter-Applicant is not was dependent on the mother as she was married, as such the daughter was granted compensation only for loss of love and affection.

6. In view of the same, the contention of the learned counsel appearing for the Claimant cannot be accepted and the Appeal is accordingly dismissed.

7. All pending Civil and Interim Applications are disposed of.

(ARUN R. PEDNEKER, J.)