

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

FIRST APPEAL NO. 127 OF 2023

The Maharashtra State Road Transport)
Corporation, through its Divisional)
Manager, Kankavali, Sindhudurg.)....Appellant

Versus

1. Sadanand Bhoru Bodekar)
Age: about 60 years, Occ: Service)

2. Shubhangi Sadanand Bodekar)
Age: 50, Occ: Housewife)
Both R/o At & Post Harkul Khurd)
Tal. Kankavali, Dist: Sindhudurg)

3. Santosh Gopal Gawade)
Age: 39 years, Occ: Driver)
R/o At & Post : Nerur (Madyachivadi))
Tal. Kudal, Dist: Sindhudurg)....Respondents

Mr. Nitesh V. Bhutekar a/w Mr. Aniket Nangare, Advocate for the Appellant.

Mr. Hemant Ghadigaonkar, Advocate for the Respondent Nos.1 & 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th FEBRUARY, 2024.

Oral Judgment. :

1. The issues involved in this appeal are compensation is awarded on higher side under non pecuniary heads and future prospects awarded by the Tribunal.

2. It is contention of learned counsel for the Appellant/Corporation that the claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988 (for short “the MV Act”). The Tribunal should not have awarded future prospects and the compensation under non pecuniary heads should have awarded as per 2nd schedule of the MVAct. The Tribunal has awarded compensation on higher side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondents/Claimants that while passing order, the Tribunal has considered all the aspects hence, no interference is required in it.

4. I have heard both learned counsel. Perused judgment and

order passed by the Motor Accident Claims Tribunal, Sindhudurg (for short “the Tribunal”).

5. While awarding compensation, the Tribunal has considered monthly income of deceased at Rs.3,000/- per month and on that basis, the Tribunal has 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 future prospects. Though, the claim petition was filed under Section 163-A of Motor Vehicles Act, 1988. As per the view of Hon’ble Apex Court in the case of *Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)*. The claimants are entitled for consortium amount. The Tribunal has awarded Rs.25,000/- for love and affection, it is excess amount. It appears that the consortium amount is awarded to only one claimant, there are two claimants hence, amount of Rs.25,000/- awarded under love and affection is adjusted in the consortium amount, which was not given to the other claimant. The Tribunal has awarded @ 9% interest on compensation amount, in my view, it is on higher side, it should be 7.5%.

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

ORDER

- i. Appeal is partly allowed.
 - ii. The claimants are entitled for compensation amount @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
 - iii. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
 - iv. The Appellant/Corporation is permitted to withdraw the excess amount of interest.
7. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)