

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 851 OF 2023

Maharashtra State Road Transport Corporation
MSRTC Divisional Office, Solapur
Having office at Budhavar Peth, Solapur-413 002

Appellant

Versus

1. Aditi d/o. Annaso Mane
Age – 5 years, Occupation – Nil.
2. Om s/o. Annaso Mane
Age – 4 years, Occupation – Nil.
3. Deepak s/o. Sidram Sabale
Age – 58 years, Occupation – Nil
4. Anita w/o. Deepak Sabale
Age -50 years, Occupation – Housewife
5. Ketan s/o. Deepak Sabale
Age – 25 years, Occupation – Education
6. Shival s/o. Deepak Sabale
Age – 26 years, Occupation – Education
(Respondent No.1 and 2 being minors,
represented through their next friend viz.
Maternal grand father Respondent No.3
abovenamed.
All the Respondent No.1 to 6 residing at Plot
No.91, Vijay Laxmi Nagar, Near Maharaja Hall,
Hotgi Road, Majrewadi, Taluka – Solapur,
District – Solapur)
7. Bhaurao s/o. Baliram Mandavi
Age – 29 years, Occupation – Driver
Residing at Vaishnavi Nagar, Isbavi, Pandharpur,
District – Solapur
8. Annaso Sukhadev Mane
Age – 38 years, Occupation – Service.
Residing at At post SRPF Group No.1, Pune]

Respondents

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Mr. Ansari Faiyaz Ahmed i/b. Mr. Amit Gharte, Advocate for the Appellant.

Mr. Ravindra S. Pachundkar, Advocate for Respondent Nos. 3 to 6.

CORAM : SHIVKUMAR DIGE, J.
DATE : 23rd JANUARY, 2024.

JUDGMENT :

1. The issue involved in this appeal is income of the deceased is considered on higher side.
2. It is contention of learned counsel for the appellant that the deceased was police constable and no evidence was produced on record to prove her income. In spite of that the Tribunal has considered monthly income of deceased at Rs.29,599/- which is on higher side. Learned counsel further submitted that respondent Nos.5 and 6 are major they cannot be termed as a dependent of the deceased. Hence, requested to allow the appeal.
3. It is contention of learned counsel for the respondent Nos. 3 to 6/claimants that deceased was police constable. She was getting salary of Rs.40,000/- but considering the salary slip produced on record, the Tribunal has considered monthly income of deceased at Rs.29,599/- which is proper. Learned counsel further submitted that respondent Nos. 5 and 6 are the younger brothers of the deceased and they were dependent on the income of the deceased as they are taking education, they had no source of income hence, requested to dismiss the appeal.
4. I have heard both the learned counsel. Perused the Judgment and

Order passed by the Motor Accident Claims Tribunal, Solapur (for short “**the Tribunal**”). To prove the income of deceased the claimants have examined the claimant No.3, PW-1 Deepak Sable at Exhibit-35. He has stated that the deceased was working as a police constable and getting salary of Rs.40,000/-per month. To support the evidence of PW-1 the claimants have examined witness Revansidh Kale, Police Sub Inspector in the office of Police Superintendent, Solapur, he has stated that the deceased Arti was serving as a police constable in S.P.Office, Solapur and her monthly salary was Rs.29,599/-. The salary slip is at Exhibit-39. Considering the salary slip and evidence on record the Tribunal has considered monthly income of deceased at Rs.29,599/-. I do not find infirmity in it. The respondent Nos. 5 and 6 are the younger brothers of the deceased and at the time of filing claim petition they were taking education. Though they are major they were dependent on the income of the deceased hence they can be considered as dependent of the deceased.

5. In view of above, I pass following order:

ORDER

- (i) The appeal is dismissed. No order as to cost.
- (ii) The claimants are permitted to withdraw the deposited amount along with accrued interest thereon as per the apportionment done by the

Tribunal.

- (iii) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are directed to withdraw it as per rules.

6. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)