

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

FIRST APPEAL NO. 1152 OF 2019

Maharashtra State Road Transport)
Corporation, through its Divisional)
Officer, Sindhudurg-Oros)....Appellant

Versus

1. Gulab Santosh Kadam) Appeal stand
Age: 30 years, Occ: Service,) dismissed
Widow of deceased) against Res. Nos.
2. Nishan Santosh Kadam) 1 & 2 vide
Age: 9 years, Occ: Education,) Registrar order
Son of deceased, being minor) order dated
through Respondent No.1) 19/03/2020
Natural guardian.)
Respondent Nos. 1 & 2 Residing Nardave,)
Taluk: Kankavli, Dist: Sindhudurg.)
3. Shailendra Shatruguna Khochrekar,)
Age: 38 years, Occ: Driver.)
Residing at Masade, Badachapat,)
Navbhatwadi, Taluk: Malvan,)
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 head 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 MV Act. The tribunal has awarded it on higher side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent/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. 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 ***National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)***, the claimants are entitled for future prospects. It is settled principle of law that the claimants are entitled for consortium amount. Under non pecuniary head, amount of Rs.1,60,000/- awarded by the tribunal, is on higher side. There are two claimants. 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)***, each claimant is entitled for Rs.48,000/- for consortium amount and Rs.18,000/- for loss of estate and Rs.18,000/- total comes to Rs.1,32,000/-. If this amount deducts from the amount awarded by the tribunal i.e. Rs.1,60,000/- it comes to

Rs.28,000/- this is excess amount. The appellant is entitled for this amount. 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 appellant/corporation is permitted to withdraw the excess amount of Rs.28,000/- along with proportionate interest.
- iii. The claimants are permitted to withdraw the balance amount @ 7.5% interest per annum instead of 9 %.
- iv. The appellant is permitted to withdraw the excess amount of interest.

7. All pending applications, if any, stands disposed of.

(SHIVKUMAR DIGE, J.)