

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL STAMP NO. 18508 OF 2023

	Maharashtra State Transport Corporation Through Divisional Controller, Budhwar Peth, Solapur.	...	Appellant
	versus		
1	Sambhaji s/o. Bhagwan Jadhav Age – 46 years, Occu.-Agriculture		
2	Chatura w/o. Sambhaji Jadhav Age – 43 years, Occu.-Household. Both R/at Velapur, Tal. Malshiras, Dist. Solapur	...	Respondents

Mr. Nitesh Bhutekar a/w. Ms. Gargi Warunjikar and Mr. Aniket Nangare,
 Advocate for the Appellant.

Ms. Manisha Devkar, Advocate for Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th FEBRUARY, 2024.

Oral Judgment :

1. The issues involved in this appeal are income of the deceased is considered on higher side, contributory negligence of the deceased and deduction of amount for personal expenses.

2. It is contention of learned counsel for the appellant-Corporation that the accident occurred due to contributory negligence of the deceased but this fact is not considered by the Tribunal. Learned counsel further submitted that the Tribunal has considered monthly income of the deceased at Rs.8250/-, which is on higher side. Learned

SHUBHADA
SHANKAR
KADAM

Digitally
signed by
SHUBHADA
SHANKAR
KADAM

Date:
2024.05.04
13:28:04
+0530

This order is corrected in view of speaking to the minutes order dated 29th April 2024 . 1/4

counsel further submitted that deceased was a bachelor but the Tribunal has deducted 1/3rd amount for personal expenses, it should be 1/2th. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondents/claimants that deceased was a pillion-rider, so no question of contributory negligence arises. The income considered by the Tribunal is proper. The Tribunal has considered all the aspects while passing the order, hence, no interference is required in it.

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

5. The deceased was riding on the motor-cycle as a pillion-rider, so no question of contributory negligence arises. Hence, I do not see merit in issue raised about contributory negligence of the deceased.

While considering the income of the deceased, the Tribunal has considered him as a labourer and on the basis of Rs.275/- as daily wages along with future prospects, the Tribunal has considered his monthly income at Rs.8250/-. I do not find infirmity in it.

While deducting the amount for personal expenses, the Tribunal has deducted 1/3rd amount. As the deceased was bachelor, it should be 1/2th. Hence, I am considering 1/2th amount for personal expenses.

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.48000/- as consortium amount.

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

1.	Loss of earning	Rs. 8,91,100.00
	- Monthly income @ Rs.8250/-	
	- Annual income Rs.99000/-(Rs.8250/- x 12)	
	-1/2th deduction towards personal expenses	
	- (Rs.99,000/-Rs.49500/-) = Rs.49,500/-	
	- Rs.49,500/- x 18(multiplier) =891000/-	
2.	Loss of consortium	
	(Rs.40,000/- + Rs.48,000/-)	Rs. 96,000.00
3.	Loss of estate	Rs. 18,000.00
4.	Funeral Expenses	Rs. 18,000.00
Total Compensation		Rs. 10,09,000.00

The Tribunal has awarded Rs.12,58,000/-. If from this amount, Rs.10,09,000/- considered by this Court is deducted, it comes to Rs.2,49,000/-. This is an excess amount. The appellant-Insurance Company is entitled for it.

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

O R D E R

1. The appeal is partly allowed.
2. The appellant-Corporation is permitted to withdraw excess amount of Rs.2,49,000/- along with

proportionate interest thereon out of the deposited amount.

3. The respondents/claimants are permitted to withdraw the balance amount along with proportionate interest thereon out of the deposited amount.

4. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

The first appeal stands disposed of.

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

(SHIVKUMAR DIGE, J.)