

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 825 OF 2023

Maharashtra State Road Transport Corporation)
Through Divisional Controller, Shankarsheth Road,)
Swargate, Pune)
... Appellant

Versus

1 Shri. Dattatraya Dnyaneshwar Korde)
Age-53 years, Occupation-Agriculture)
2 Mrs. Laxmi Dattatraya Korde)
Age : 46 years, Occupation-Housewife)
Both are R/at Panmala, Tinhewadi, Taluka:Khed,)
District: Pune)
... Respondents

Mr. Aniket Nangare i/b. N.V.Bhutekar, Advocate for the Appellant.

Mr. Yogesh Pande, Advocate for Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th MARCH, 2024.

Oral Judgment :

1. The issue involved in this appeal is compensation is awarded on higher side.

2. It is contention of learned counsel for the Appellant/Corporation that the Tribunal has awarded Rs.5,00,000/- for loss of estate. Learned counsel further submitted that without any evidence on record, Tribunal has awarded excessive amount for loss of estate, which is erroneous. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondents/Claimants that while awarding the compensation, the Tribunal has not awarded future prospects and consortium amount is awarded to only one Claimant. There are two Claimants, the consortium amount be awarded to the other Claimant. Hence, requested to dismiss the Appeal.

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

5. While awarding compensation, the Tribunal has awarded Rs.5,00,000/- for loss of estate. In my view, it is on higher side. As per 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 to Rs.18,000/- for loss of estate, as well as the Tribunal has awarded consortium amount to only one Claimant. The

other Claimant is entitled for consortium amount of Rs.48,000/-.

While awarding the compensation, the Tribunal has considered the income of the deceased at Rs.8,000/- per month, The Tribunal has not 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 40% future prospects.

6. Considering the above calculations, the Claimants are entitled for following compensation.

Monthly income	Rs.8,000/-
Annual income	Rs.96,000/-
Add:40% future prospects	Rs.38,400/-
Total income	Rs.1,34,400/-
Less ½ deduction for personal expenses	Rs.67,200/-
Multiplier 18	Rs.12,09,600/-
Funeral Expenses	Rs.15,000/-
Loss of Estate	Rs.15,000/-
Consortium amount (already given by the Tribunal to one Claimant)	Rs.40,000/-
Consortium amount (2 nd Claimant)	Rs.48,000/-
Total Compensation	Rs.13,27,600/-
Awarded by the Tribunal	Rs.14,34,000/-
Excess amount	Rs.1,06,400/-

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

ORDER

- i. Appeal is partly allowed.
 - ii. The Appellant is permitted to withdraw the amount of Rs.1,06,400/- with proportionate interest out of deposited amount.
 - iii. The Claimants are permitted to withdraw the balance amount along with accrued interest thereon.
 - iv. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
8. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)