

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 160 OF 2024

Maharashtra State Transport Corporation,]
Having its registration office at Central Vahatuk]
Bhavan balasis Road, Bombay Central, Mumbai]
– 400 035]
Through Divisional Controller, MSRTC, Pune.]
.... Appellant

Versus

1. Minabai Pandharinath Phapale]
Age: 43 Years, Occ: Housewife]
2. Pandharinath Mamta Phapale]
Age: 45 Years, Occ: Agriculturist]
Both R/at Jachakwadi, Post: Belhapur]
(Badagi), Tal. Akole,]
District: Ahmednagar]
.... Respondents

Mr. D. D. Rananaware, for the Appellant.
Mr. Abhishek Matkar a/w Mr. Uddhav Katkar i/b Ms. Vaishnavi M.
Gujarathi, for Respondent Nos.1 & 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th NOVEMBER, 2024.

ORAL JUDGMENT. :

1. The issue involved in this appeal is income of the deceased is considered on higher side and contributory negligence of the deceased.

2. Learned counsel for the Appellant/Corporation submitted that two persons died due to accident. The deceased was a pillion rider on his friend's motorcycle. The said motorcycle gave dash to the S. T. Bus. Due to dash, the deceased and his friend died. Learned counsel further submitted that it is claimant's case that the deceased was 3rd year computer engineering student. The motorcycle rider was a friend and classmate of the deceased. In the said claim petition, the Tribunal has considered monthly income of the deceased's friend at Rs.6,000/- but in the present case, the monthly income of the deceased has been considered at Rs.8,000/-, which is on higher side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondents/Claimants that deceased was only son of claimants. He had bright future as he was meritorious student. He was studying in 3rd year of computer engineering course. At the time of incident, he was 20 years old. Due to some family issues, the claimants have not

filed the appeal for enhancement of amount. The monthly income considered by the Tribunal is proper, and no interference is required in it, and requested to dismiss the appeal.

4. I have heard both learned counsel. Perused the impugned judgment and order passed by the Motor Accident Claims Tribunal, Rajgurunagar-Khed (for short “the Tribunal”).

5. To prove the income of the deceased, the Claimant No.1, mother of the deceased examined herself. She has stated that the deceased was her only son and he was studying in 3rd year of engineering course. After completing engineering, he would have got good job of handsome salary. The fact that the deceased was 3rd year engineering student is not disputed by the Appellant. In companion claim petition filed by deceased’s friend, who was classmate of deceased. The Tribunal has considered monthly income of deceased’s friend at Rs.6,000/-. In my view, both the claim petitions have decided by different Presiding Officer. In the present case, the Tribunal has considered monthly income of deceased at Rs.8,000/-. I do not find infirmity in it. In my view, the deceased was 3rd year engineering student. As per the Minimum Wages Act, 1948 even labourers get more amount than of Rs.8,000/- per month. Therefore,

the income considered by the Tribunal is proper and no interference is required in it. It is contention of learned counsel for the Appellant that accident occurred due to contributory negligence of the deceased. In my view, the deceased was pillion rider. Therefore, no question of his contributory negligence arises.

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

ORDER

- i. Appeal is dismissed.
 - ii. The Respondents/Claimants are permitted to withdraw the deposited amount along with accrued interest.
 - iii. The statutory amount be transmitted to the Tribunal.
The parties are at liberty to withdraw it, as per Rule.
 - iv. Record and proceeding be sent back to the tribunal.
7. All pending applications, if any, stands also disposed of.

(SHIVKUMAR DIGE, J.)