

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1897 OF 2024

1. Bhikan s/o Namdeo Patil,
Age: 52 Years, Occ.: Agri,
2. Shobha W/o Bhikan Patil,
Age: 42 Years, Occ.: Agri,
Both R/o:Dhangar(Budruk),
Tal. Amalner, District Jalgaon. ..Appellants

VERSUS

1. Manjoor Ahemad Abdullah Shaikh,
Age: 40, Occu.: Driver,
R/o: Zo-677, Raman Mama Nagar,
Bainganwadi, Gowandi, Mumbai-43.
2. Hamid Ali Ansari,
Age: 47, Occu.: Business,
R/o. Shivaji Nagar Zopadpatti,
E-line, Room No 12, Bainganwadi,
Gowandi, Mumbai-43.
3. HDFC-ERGO General Insurance Co. Ltd.,
Registered office at Aurangabad,
Branch Office at Nirala Bazar,
Nageshwar Wadi, Aurangabad. ..Respondents

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Advocate for Appellants : Mr. A.D. Sonar
Advocate for Respondent No.3 : Mr. M.R. Deshmukh

...

CORAM : S.G. CHAPALGAONKAR, J.

DATED : APRIL 30, 2025

ORDER :

1. Present appeal takes exception to judgment and award dated 28.11.2023 passed by Motor Accident Claims Tribunal, Amalner, District Jalgaon in Motor Accident Claim Petition No. 106 of 2017 to the extent of assessment of compensation.

Appellants/original claimants seeks enhancement of compensation by way of present appeal filed under Section 173 of Motor Vehicles Act, 1988. (Parties are hereinafter referred to as per their original status).

2. The appellants/claimants instituted Motor Accident Claim Petition No.106 of 2017 before Motor Accident Claims Tribunal, Amalner contending that on 17.09.2017, their son namely Atul Bhikan Patil was proceeding on his bicycle which was dashed by Eicher truck bearing Registration No.MH-48-AG-6847. Due to impact of accident, late Atul suffered fatal injuries. The incident was reported to police station. Consequently, offence was registered against truck driver. It is further contention of claimants that late Atul was aged about 14 years at the time of accident. He was taking education in school in Village Dangre, Taluka Amalner. Accordingly, they raised claim for compensation of Rs.7,00,000/- from owner, driver and insurer of offending vehicle.

3. The Tribunal after considering rival submissions accepted case of claimants that accident occurred due to sole negligence on part of driver of offending vehicle and assessed compensation of Rs.3,40,000/-, eventually passed an award against respondents.

4. Mr. Sonar, learned advocate appearing for appellants submits that the Tribunal is under obligation to determine just compensation in terms of Section 168 of Motor Vehicles Act. According to him, claimants have lost their son aged about 14 years.

The compensation as assessed by the Tribunal is grossly inadequate. Relying upon the observations in the case of *Meena Devi Vs. Nunu Chand Mahto alias Nemchand Mahto and Others*¹, he submits that minimum compensation of Rs.5,00,000/- ought to have been awarded along with compensation towards non-pecuniary heads as approved by Hon'ble Supreme Court. He would therefore urge to enhance the compensation by appropriately modifying the award.

5. Mr. Deshmukh, learned advocate appearing for respondent/insurance company would submit that determination of compensation depends upon various factors. In present case, accident occurred in the year 2017. Late Atul was taking education in school at Village Amalner. No specific material as to his mental and physical capability is brought on record. The Tribunal exercised discretion after referring to law laid down by this Court as well as Hon'ble Supreme Court of India in various judgments. Therefore, he urges that there is no case for interference in the award of the Tribunal.

6. Determination of compensation in case of child death depends upon multiple factors. In case of *R.K. Malik and Anr Vs. Kiran Pal and Ors*², the Hon'ble Supreme Court observed that Second Schedule under Motor Vehicle Act would be guide for determination of compensation and also observed that multiplier method can be applied. In case of *Lata Wadhwa Vs. State of Bihar*³, the

1 (2023) 1 SCC 204

2 (2009) 14 SCC 1

3 (2001) 8 SCC 197

compensation was granted looking to the factors like status of family of victims and nature of education that was available to them. However, in case of *Kishan Gopal Vs. Lala*⁴, in case of child aged about 10 years from rural area, the Hon'ble Supreme Court accepted his notional income @ Rs.30,000/- and applied multiplier of 15. In addition granted Rs.50,000/- towards conventional head and total sum of compensation of Rs.5,00,000/- was awarded.

7. To sum up, in case of Meena Devi (supra), for death of child aged about 12 years, the principles laid down in the case of Kishan Gopal (supra) were carried forward and considering notional loss of Rs.30,000/- p.a. to the parents, after applying multiplier of 15, loss of future earning was worked out to Rs.4,50,000/- and after adding conventional heads, compensation of Rs.5,00,000/- has been awarded. In present case, age of victim was more than 14 years. Therefore, this Court finds it fit to consider annual loss to claimants @ Rs.30,000/-. Multiplier of 15 will have to be applied. As such, total loss of future earning can be worked out to Rs.4,50,000/-. Claimants being parents of deceased would be entitled for compensation towards loss of filial consortium as assessed in case of *Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram*⁵. Similarly, the compensation towards conventional heads like loss of

4 (2014) 1 SCC 244

5 (2018) 18 SCC 130

estate, funeral and transportation can be added @ Rs.15,000/- each.

In result, the compensation be worked out as under :

Annual Loss of Claimants	Rs.30,000/-
Multiplier '15' (30,000 x 15)	Rs.4,50,000/-
Filial Consortium for (Father)	Rs.40,000/-
Filial Consortium for (Mother)	Rs.40,000/-
Loss of Estate	Rs.15,000/-
Funeral, Transportation, Ambulance etc.	Rs.15,000/-
Total Compensation to be awarded	Rs.5,60,000/-
Tribunal granted	Rs.3,40,000 @ 7% p.a.
Amount to be enhanced	Rs.5,60,000 – 3,40,000 = 2,20,000/-

8. In light of aforesaid calculations, the appeal deserves to be partly allowed by modifying judgment and award passed by the Tribunal. In result, following order is passed :

ORDER

- (i) First Appeal is partly allowed.
- (ii) The appellants/claimants are held entitled to total compensation of Rs.5,60,000/- from respondents along with interest @ 7% p.a. from the date of institution of claim petition.
- (iii) Compensation amount already paid/disbursed in pursuance to award passed by Tribunal shall be appropriated.
- (iv) Modified award be drawn on payment of deficit Court fees, if any.
- (v) First Appeal stands disposed of.

(S.G. CHAPALGAONKAR, J.)