



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2186 OF 2017

JYOTI KUMAR WAGHMARE AND OTHERS
VERSUS
GODREJ AND BOYCE MFG CO. LTD. AND OTHERS

...
Advocate for Appellants : Mr. Garud N.C.
Advocate for Respondent No. 2 : Mr. Kasar Rajendra S.
Advocate for Respondent No. 3 : Mr. Rathi Swapnil S.

...
CORAM : NEERAJ P. DHOTE, J.

DATE : 08.08.2025

PER COURT :

1. Heard learned Advocate for the petitioner, learned Advocate for respondent no. 2/Vehicle owner and learned Advocate for respondent no. 3/Insurance Company. None appears for respondent no. 1, though served.

2. The judgment of the learned Tribunal shows that respondent no. 1 has been exonerated from liabilities. It is submitted by learned Advocate for the appellants that the vehicle involved in the accident was sold by respondent no. 2 and he was not claiming any relief of respondent no. 1.

3. By consent of learned Advocate for the appellants and learned Advocate for respondent nos. 2 and 3, the matter is heard finally.

4. The appellants had preferred the Motor Accident Claim Petition which was numbered as 367/2010, for compensation before the learned Tribunal at Ahmednagar, on account of motor accidental death of Kumar Eknath Waghmare who was the husband of Appellant no. 1, father of Appellant nos. 2 and 3 and son of Appellant nos. 4 and 5. The Appellants claimed the compensation of Rs. 5 Lakhs with interest. The said claim petition was contested by all the parties and it came to be disposed of by the Judgment and Order dated 27.06.2013, by granting compensation of Rs. 5 Lakhs with interest at the rate of 7% per annum.

5. Learned Advocate for the appellants submits that his appeal is on very limited count i.e. for enhancement of compensation which is determined by the learned Trinunal. He submits that, since the appellants had not paid the Court fees and restricted the claim upto Rs. 5 Lakhs. The learned Tribunal restricted Award to the said quantum. He submits that it is the settled position that just and fair compensation is to be granted under the Motor Vehicles Act.

6. The appeal is opposed by learned Advocate for respondent nos. 2 and 3. He submits that since the appellants had restricted the claim for want of Court fees, the learned Tribunal has rightly granted the compensation of Rs. 5 Lakhs. They submit that no interference is called for in the matter.

7. I perused the papers on record. The learned Tribunal on assessing the evidence available on record came to the conclusion that the applicants (appellants) were entitled for the compensation of Rs. 7,10,400/-, however, granted compensation of Rs. 5 Lakhs with the observation that the appellants have restricted their claims on the said amount. Needless to state that it is settled position under the law that the Tribunal can grant more compensation than claimed if the entitlement is established. A useful reference can be made to the judgment of the Hon'ble apex Court in the case of **Nagappa Versus Gurudayal Singh and others, AIR 2003 SC 674**, on that aspects.

8. The appellants had specifically averred in the memo of the claim Petition that, due to financial crises, they restricted the claim of Rs. 5 Lakhs. However, it is further averred that if the Court grant access compensation, then they were ready to pay the deficit Court fees. As the learned Tribunal held the appellants entitled for the compensation of Rs. 7,10,400/-, it ought to have grant the said compensation with appropriate direction with respect to the Court fees. In this view of the matter, the appeal needs to be allowed and hence the following order :

ORDER

- i. The appeal is allowed.

ii. The amount of compensation awarded by the learned Tribunal is modified from Rs. 5 Lakhs to 7,10,400/- with interest as computed by the learned Tribunal. The rest of the contents of the award shall remained as it is.

iii. The apportionment of the enhanced amount be made in the same proportion as done by the learned Tribunal.

iv. The appellants shall pay the deficit Court fees on the enhanced amount, if any.

v. Award be drawn up accordingly.

(NEERAJ P. DHOTE, J.)

spc/-