IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

902 FIRST APPEAL NO. 347 OF 2025

PRAYAGBAI BHANUDAS PANALE
VERSUS
JAWED BABUMIYA SHAIKH AND ORS
...
Advocate for Appellant : Mr. Kendre Namdev D
Advocate for Respondent No.3 : Mr. Deshmukh Mohit R.
...

CORAM : S. G. CHAPALGAONKAR, J.
Dated : 28.02.2025

PER COURT :-

1. Heard learned Advocates appearing for respective parties.

2. Appellant/Original Claimant filed present appeal being aggrieved by assessment of compensation made by Tribunal in its judgment and award dated 15.03.2024 in MACP No. 339 of 2019.

3. Mr. Kendre, learned Advocate appearing for appellant submits that tribunal declined to apply relevant multiplier and grant just compensation only for the reason that deceased was more than 70 years of age. He submits that even in such cases assessment of compensation shall be made by applying minimum multiplier as prescribed. He submits that notional income of the deceased was claimed as Rs. 90,000/- p.a. Tribunal could have considered 1/2 dependency of claimant/widow, eventually appropriate compensation, by applying multiplier of "5" ought to have been awarded.

4. Per contra, Mr. Deshmukh, learned Advocate appearing for respondent No. 3 Insurance Company supports the award. He submits that deceased was more than 73 years of age. Tribunal granted adequate compensation on other permissible heads. As such, award is just and proper and does not require any interference in appellate jurisdiction.

5. Having considered submissions advanced, it can be observed that Tribunal refused to apply multiplier only on the ground that age of the deceased as discernible from Adhar Card, was of more than 73 years. However, it is well settled that in case of victim above 65 years of age, minimum multiplier "5" is to be applied. Therefore, observations of the Tribunal as employed in paragraph No.

19 of the judgment cannot be countenanced.

6. Although Mr. Kendre, submits that income of deceased ought be considered @ of Rs. 90,000/- p.a., considering age of deceased, this court finds it appropriate to consider notional income @ 6,000/- p.a. Since the claimant was only dependent, 1/2 amount of income needs to be deducted towards personal and living expenses. Towards loss of future earning, in addition Claimant would be entitled for compensation towards non pecuniary heads as quantified by Tribunal. In result compensation can be re-assessed as per following calculations in tabular form :

Sr.No.	Heads	Amount
1)	Income	Rs.6,000/-
2)	Deduction 50%	Rs. 3,000/-
3)	Monthly Dependency	Rs. 3,000/-
4)	Annual Dependency	Rs. 36,000/-
5)	Multiplier	"5"
6)	Pecuniary loss	(Rs. 36,000 x 5) = Rs. 1,80,000/-
7)	Non Pecuniary loss as awarded	Rs. 84,000/-
8)	Total Compensation =	Rs. 2,64,000/-
9)	Already awarded	Rs. 84,000/-
10)	Enhancement	Rs. 1,80,000/-with 6% interest

7. In result following order :

ORDER

(i) First Appeal is partly allowed and disposed off.

(ii) Claimant is held entitled for total compensation of Rs. 2,64,000/- with interest as awarded by Tribunal.

(iii) Amount already deposited and paid by insurer shall be apportioned.

(iv) On deposit of amount it be disbursed to respondent/Claimant.

(v) Deficit Court fees, if any, shall be paid.

(vi) Award be modified accordingly.

(S. G. CHAPALGAONKAR)
JUDGE

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