IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3246 OF 2023

1. Shivkanta W/o Munja @, Shivraj Ghadge,
Age : 42 Years, Occu. : Household,

2. Punam D/o Munja @ Shivraj Ghadge,
Age: 22 Years, Occu. Education

3. Puja D/o Munja @ Shivraj Ghadge
Age : 19 Years, Occu : Education,

4. Sunil S/o Munja @ Shivraj Ghadge
Age : 17 Years, Occu : Education,

5. Rani D/o Munja @ Shivraj Ghadge,
Age : 16 Years, Occu : Education

6. Mohini D/o Munja @ Shivraj Ghadge,
Age : 16 Years, Occu : Household,

Appellant Nos.4 to 6 minors
U/G of their real mother
Shivkanta W/o Munja @, Shivraj Ghadge i.e.
appellant No.1
All R/o Talegaon Tq Majalgaon, Dist. Beed
At present Om Nagar, Gangakhed, Dist. Parbhani

.....APPELLANTS
(Orig. Claimants)

VERSUS

1. The Divisional Controller,
Maharashtra State Road, Transport
Corporation Gangakhed Road,
Dist. Parbhani

2. Kalavati W/o Manikrao Ghadge,
Age 65 Years, Occu: Agri
R/o infront of Hospital of Dr. Toshniwal
Majalgaon Road, Telgaon Tq. Majalgaon
Dist. Beed

.....RESPONDENTS
(Orig. Respondents.)

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Mr. M. P. Kale, Advocate for Appellants
Mr. A. D. Wange, Advocate for Respondent No.1

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CORAM : ROHIT W. JOSHI, J.
Dated : 06TH MARCH, 2025

ORAL JUDGMENT :-

. The present First Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 seeking enhancement of compensation.

2. The appellants/claim petitioners submit that the learned Tribunal has otherwise correctly computed the compensation payable towards the head of loss of financial dependence except for failure in taking into consideration the head of future prospects. They claim enhancement in the amount of compensation in that regard.

3. Apart from this, it is pointed out that a sum of Rs.40,000/- ought to have been awarded to each of the dependents of the deceased as per judgment of the Hon'ble Supreme Court in the matter of ***Magma General Insurance Company Limited Versus Nanu Ram Alias Chuhru Ram & Ors. (2008)18 SCC 130 ,*** which is followed in the matter of ***United India Insurance Company Ltd. Versus Satinder Kaur (2021) 11 SCC 780.***

4. The learned Counsel submits that there are 07 dependents, for whom a sum of Rs.2,80,000/- ought to have been awarded towards the loss of consortium. He further submits that amount of Rs.15,000/- each ought to have been awarded towards loss of estate and funeral expenses, which is also not awarded.

5. The learned Counsel for the respondent/MSRTC argues that the amount of compensation is rightly computed against loss of financial dependence. He also points out that in the event, compensation towards consortium is enhanced, appropriate deduction should be made towards compensation awarded for loss of love and affection and consortium, which is already awarded.

6. Having heard the respective submissions, following points arise for my consideration in the present appeal.

i. Has the learned Tribunal erred in not awarding compensation towards future prospects?

ii. Has the learned Tribunal erred in not computing compensation under conventional heads property?

iii. What should be the enhancement in the amount of compensation awarded, if any?

Point Nos.(i) to (iii) :-

7. Perusal of the judgment and award passed by the learned

Tribunal demonstrates that the aspect of future prospects has skipped the attention of the learned Tribunal. The learned counsel for the appellant is right in raising grievance in this regard. Having regard to the age of the deceased i.e. 44 years on the date of his sad demise coupled with fact that he was not in permanent employment an enhancement of 25% is required to be granted against the head of future prospects. Apart from addition for future prospects, deduction towards personal expenses of the deceased will also have to be made. Since the deceased is survived by seven dependents, deduction of 20% is required to be made on his monthly income. The monthly income of the deceased is Rs.7,000/-, as such, 25% component towards future prospects comes to Rs.1750/-. Thus for the purpose of computation of compensation monthly income of the deceased will have to be taken at Rs.8,750/-. A further deduction of 20% is required to be made on account of personal expenses which comes to Rs.1750/-. Therefore, the monthly loss of dependents comes to Rs.7,000/-. The annual loss of dependence is Rs.84,000/-. Having regard to the age of the deceased i.e. 44 years multiplier of 14 is required to be applied and accordingly total compensation payable under the head of financial dependents comes to Rs.11,76,000/-.

8. In view of the law laid down in ***Magma General Insurance Company Limited*** *and* ***Satinder Kaur*** referred above the widow, 5 children and mother of the deceased are entitled to sum of Rs.40,000/- each towards loss of consortium. The learned Tribunal has awarded sum of Rs.25,000/- towards loss of consortium and 25,000/- towards loss of love and affection.

9. In that view of the matter, a sum of Rs.2,30,000/- (2,80,000 – 50,000) needs to be enhanced towards loss of consortium. Likewise, the learned Tribunal has not awarded any compensation towards loss of estate and funeral expenses for which Rs.30,000/- should be paid.

10. Accordingly, it is held that sum of Rs.14,86,000/- is payable to the appellants and respondent No.2. The learned Tribunal has awarded compensation of Rs.10,00,800/-. In view of the above, the appeal is partly allowed by granting enhancement of compensation to the tune of Rs.14,86,000/= - Rs.10,00,800/-. Hence, the following order :-

ORDER

a. The appeal is allowed.

b. The judgment and award dated 16.03.2022 passed by the learned Member, Motor Accident Claims Tribunal and Adhoc District Judge-1, Gangakhed in Motor Accident Claims Petition No.53/2018 is modified as under :-

c. The Respondent No.1 shall pay Rs.14,86,000/- (Rs. Fourteen Thousand Eighty Six Thousand Only) to the appellants and respondent no.2 towards the compensation under Section 166 of the Motor Vehicles Act, with interest at the rate of 7% per annum from the date of the petition until realization.

3) The compensation amount of Rs.14,86,000/- shall be distributed amongst the appellants and respondent No.2 in the following manner :

(i) The amount of Rs.5,50,000/- along with accrued interest (Rs.Five Lakhs Fifty Thousand) be given to the appellant No.1.

(ii) the amount of Rs.1,50,000/- (One Lakh Fifty Thousand) be given to appellant nos.2 to 6 each and

(iii) the amount of Rs.1,86,000/- (One Lakh Eighty Six Thousand) be given to respondent No.2.

4) The said amount be paid to the appellants and respondent No.2 by way of account payee cheque, after due

identification of the appellants and respondent No.2.

5) In case, the interim amount of Rs.50,000/- under Section 140 of the Motor Vehicles Act is withdrawn by the appellants and respondent No.2, the same shall be adjusted in aforesaid compensation amount.

6) The amount coming to the shares of minor appellant nos.3 to 6 shall be kept in fixed deposit in any Nationalized bank till they attain the age of majority.

7) The amount of compensation of Rs.14,86,000/- includes the amount of compensation of Rs.10,00,800/- awarded by the learned Tribunal.

8) The award be drawn up accordingly.

(ROHIT W. JOSHI, J)

Rushikesh/2025