



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2666 OF 2010

1. Shanta w/o Bapu Sasane.
Age: 40 years, occ: household,
r/o. Waki. Tq. Ashti, Dist. Beed.
2. Ku. Swati d/o Bapu Sasane,
Age: 23 years, occ: student,
r/o as above.
3. Ku. Sandhya d/o Bapu Sasane,
Age: 19 years, occ: student,
R/o as above.
4. Harshad Bapu Sasane,
Age: minor, u/g of mother appellant no.1,
r/o as above.

...APPELLANTS
(Orig. claimants)

- VERSUS -

1. T.S. Afsar Pasha s/o. T.S. Sallauddin.
Age: major, occ. Business,
R/o. B.D. Road, Chitradurg.
Karnataka State.
[Owner of Truck no. KA-18-7865]
2. Shri. N. Nayyaj s/o Nasir Ahemad,
Age: major, oco : business of sale
and purchase of vehicles,
R/o Opp. Railway Station,
B.D. road, Chitradurg, Karnataka State.
3. Pak Jahidulla s/o Rahmatulla Khan,
Age: major, occ: driver,
R/o. Hodalkera, Dist. Chitradurg,
Karnataka State.
[Driver of above truck]

4. National Insurance Co. Ltd.
Br. Office Chitradurg, M.H. Road,
Chitradurg, Karnataka
through its Divisional Office,
Hazari Chambers, Station Road,
AURANGABAD.
[Insurer of the truck]

...RESPONDENTS

...
Ms. Ashwini Patil, advocate h/f Shri S.J. Salunke for the
appellants.

Shri S.S. Chapalgaonkar, advocate h/f Shri S.P. Chapalgaonkar,
advocate for respondent No.4.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 08 December 2025

ORAL JUDGMENT :-

1. The appellants, through this appeal, are seeking enhancement of compensation by modifying the judgment and order dated 22.07.2010 passed by the learned Motor Accident Claims Tribunal, Beed, in MACP No.45/2009. The order dated 22.07.2010 reads thus:-

“1. The application is partly allowed with proportionate cost as under:-

2. The opponents No.1 to 4 are held liable and ordered to pay jointly and severally a compensation of Rs 1,58,000/-(Rs. One Lac Fifty Eight Thousand only) alongwith interest at the rate of 9% p.a. from the date of this

application till its entire realization to the applicants (excluding no fault liability amount of Rs. 50,000/- which is already paid by them to the applicants).

3. On opponents depositing aforesaid amount in this Tribunal then out of it a sum of Rs. 43,250/- be paid to applicant No.1 while a sum of Rs. 38,250/- each be kept in fixed deposits in the names of minor applicants No. 2 to 4 in any Nationalized Bank of the choice of their natural guardian / mother, till they attain the age of majority with liberty to applicant No.1 to receive quarterly interest on their fixed deposits which should be spent on their welfare only.
4. Award be drawn accordingly. Dictated and pronounced in an open Court.”

2. Appellant No.1 is the wife whereas, appellant Nos.2 to 4 are children of the deceased Bapu Maroti Sasane. The appellants are claiming compensation on account of the accident took place on 06.06.1998 at about 05:00 pm near village Mirajgaon, Taluka Karjat, on Ahmednagar-Solapur highway. The deceased was driving motorcycle bearing No.MH-23-D-788 and when he reached near village Mirajgaon, one truck bearing No.KA-18-A7865 gave dash to his motorcycle. As a result of dash, the deceased Bapu sustained multiple injuries and he was taken to Primary Health Centre at Mirajgaon and thereafter, to

the Military Hospital at Pune for further treatment. He was treated for seven days and while treatment was going on, he succumbed to injuries on 13.06.1998. The appellants claimed compensation of Rs.20 lacs before the learned Tribunal, however, the learned Tribunal partly allowed the application and granted the compensation as reproduced above.

3. According to the learned advocate for the appellants, the deceased Bapu was ex-serviceman and was also running grocery shop in his village and he was earning Rs.4500/- per month at the time of his death. The learned Tribunal has erroneously held that contributory negligence is attributed to the deceased Bapu. Therefore, the compensation needs to be enhanced. In support of his submissions, learned advocate has relied upon the judgment of the Hon'ble Supreme Court in *Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130*.

4. The learned advocate for the contesting respondent No.4 supported the impugned judgment and submitted that after considering evidence on record, the Tribunal has rightly granted compensation. Therefore, the appeal be dismissed.

5. I have extensively heard the learned advocates for the respective parties. On perusal of the impugned order, it is evident that the learned Tribunal has held that notional income of the deceased Bapu was Rs.3000/- per month as the appellants/ claimants could not produce any evidence to suggest that the deceased Bapu was earning Rs.4500/- per month. Considering the notional income of the deceased Bapu as Rs.3000/- per month, the learned Tribunal has deducted 50% amount towards contributory negligence and accordingly, assessed the claim to the tune of Rs.1,58,000/- only.

6. Though the appellants/ claimants could not produce any documentary evidence as regards his previous occupation or business, however, the fact remains that the deceased Bapu was admitted to the Military Command Hospital at Pune, cannot be ignored. So also, appellant No.1, wife of deceased, has stated in her evidence that the deceased was getting pension. In view of this position, it is safe to hold that the deceased was ex-serviceman.

7. It is to be seen that the deceased Bapu was aged about 39 years at the time of death and when he was driving his

motorcycle, the truck gave dash to his motorcycle. The learned Tribunal, while assessing the compensation, was pleased to hold that the deceased Bapu was 50% negligent during the accident and therefore, directed contributory negligence from the compensation. On this aspect, I have gone through the FIR, spot panchanama, postmortem report and the enquiry conducted by Police Inspector Shri B.L. Thombre. This evidence discloses that the deceased was driving his motorcycle from Mirajgaon Kranti Chowk to Ahmednagar-Solapur road and at that time, offending truck bearing, which was going towards Solapur from Ahmednagar, gave dash to the motorcycle of the deceased. The said truck was being driven rashly and negligently. Due to said accident, the deceased Bapu came under front left side wheel of the said truck and was dragged away. The statement of one Uddhav Khandu Ohol also discloses that the dash was given by the truck to the motorcycle of the deceased Bapu. Therefore, it is evident that the deceased was not responsible for the accident and the question of contributory negligence does not arise. In view of such evidence on record, in my view, it cannot be said that the deceased Bapu was negligent. As such, the learned Tribunal has erred in attributing contributory negligence to the

deceased in the absence of any cogent evidence. Once the finding on negligence is found to be unsustainable, the deduction of 50% towards contributory negligence cannot be sustained, warranting re-assessment of the compensation.

8. The Hon'ble Supreme Court in ***Sarla Verma and others vs. Delhi Transport Corporation*** (2009) 6 SCC 121 has laid down the standardized method for selection of multiplier and deduction towards personal expenses, which has been consistently followed to ensure uniformity in awarding compensation. Further, in ***National Insurance Co. Ltd. vs. Pranay Sethi and others*** (2017) 16 SCC 680, the Hon'ble Supreme Court has reiterated that the Motor Accident Claims Tribunal as well as the appellate court are under an obligation to award 'just compensation' and that addition towards future prospects cannot be denied merely for want of documentary evidence of income, particularly when the age of the deceased so warrants. In the light of these settled principles, the compensation awarded by the learned Tribunal warrants interference and modification.

9. In view of the above, the following assessment of the compensation is made:-

Particulars of compensation	Amount In Rs.
Income 4,500 X 12	54,000/- per annum
Future prospects 50%	27,000/-
Multiplier (54,000+27,000=81,000 x 15)	15 (12,15,000/-)
Towards personal Expenses 1/4	3,03,750/-
Loss of Dependency	9,11,250/- (12,15,000 - 3,03,750)
Loss of Estate (amount of Rs.15,000 be increased by 10% every 3 year from 2017 till its realization)	18,150/-
Funeral Expenses (amount of Rs.15,000 be increased by 10% every 3 year from 2017 till its realization)	18,150/-
Loss of Consortium (amount of Rs.40,000 be increased by 10% every 3 year from 2017 till its realization)	1,93,600/- (48,400 x 4)
Total	11,41,150/-

10. The respondent Nos.1 to 4 are held jointly and severally liable and are ordered to pay the above modified compensation of Rs.11,41,150/- (Rupees Eleven Lac Forty One Thousand One Hundred Fifty) along with interest at the rate of 9% per annum from the date of the MACP application till realization of the entire amount, to the appellants. If any amount under any of the above head is already paid, such amount be deducted from the aforesaid modified compensation amount. The

impugned judgment and order dated 22.07.2010 is modified in the above terms. The First Appeal is partly allowed accordingly.

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(SUSHIL M. GHODESWAR, J.)