



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

910 FIRST APPEAL NO. 3098 OF 2017

**GEETA VIJAY ATAR AND OTHERS
VERSUS
GURUMITSING OBHAN AND ANOTHER**

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Advocate for Appellant : Mr. P.S. Jadhav h/f. Latange V.P.

Advocate for Respondent No.2 : Mr. S.R. Bodade S. R.

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CORAM : Y.G. KHOBRADE, J.

DATE : 01.10.2025

PC.:-

1. Heard Mr. Jadhav the learned counsel appearing for the Appellants and Mr. Bodade the learned counsel appearing for the Respondent No.2/Insurance Company. Vide order dated 04.02.2014, Civil Application No.15274/2013 for condonation of delay as well as the appeal was dismissed as against the Respondent No.1/Owner of the vehicle. By the present appeal, the Appellants/Claimants prayed for enhancement of compensation up to Rs.15,98,200/-, instead of restricted amount of Rs.12,00,000/-.

2. On face of record, it appears that on 13.02.2013, the learned Member, M.A.C.T., Ahmednagar passed the impugned judgment and award in MACP No.558/2010 holding that the deceased Vijay Tukaram Atar, the husband of the Appellant No.1 and father of Appellant Nos.2 to 4 as well as

son of Appellant Nos.5 and 6 died in an accident on 25.07.2010 due to dash given by vehicle no.MH-04-CP-8628 from backside of the motorcycle. The said truck / container was insured with the Respondent No.2/Insurance Company and owned by the Respondent No.1 who has also been held liable to pay the compensation amount jointly and severally with the Respondent No.2/Insurance Company. The fact of causing of accident on 25.07.2010 is not in dispute.

3. Needless to say that, after considering the evidence available on record and the income of the deceased as well as considering the age of the deceased the multiplier applied as per the ratio laid down in the case of **Sarla Verma and Ors. Delhi Transport Corporation and Anr.; 2009 (5) Mh.L.J. 775**. The learned Tribunal ascertained the income of deceased of Rs.10,400/- per month which comes to Rs.1,24,800/- per year. After deducting 1/4th towards his personal expenses, his loss of dependency and prospective as well as future loss, the learned Tribunal ascertained compensation to the tune of Rs.15,98,200/-. Since the Appellants have restricted their claim to the tune of Rs.12,00,000/-, therefore, the learned Tribunal granted compensation to the tune of Rs.12,00,000/- only inclusive the amount of compensation awarded under Section 140 of the Motor Vehicles Act. The issue arising in the case in hand is no more *res intergra* as per the ratio laid down in the case of **Nagappa**

V/s. Gurudayal Singh; 2003 AIR (SC) 674 and in case of **APSRTC, Represented by its General Manager and Anr. V/s. M. Ramadevi and Ors; AIR 2008 (SC) 1221**, wherein it has been held that, the Tribunal can grant more compensation than the claim if the entitlement is established.

4. In the case in hand, the learned Tribunal ascertained the compensation to the tune of Rs.15,98,200/- after taking into consideration the monthly income of the deceased as well as dependency and loss of future income as well as after deducting his personal expenses, however, the Appellants/Claimants have restricted their claim to the tune of Rs.12,00,000/- only, hence, only an amount of Rs.12,00,000/- was granted. Since the Appellants/Claimants have shown their willingness to pay the Court fees on the ascertained amount of compensation of Rs.15,98,000/-, therefore, it will be just and proper to direct the Respondent No.2/Insurance Company to pay the remaining amount of Rs.3,98,200/- (Rupees Three Lakh Ninety Eight Thousand Two Hundred Only) with interest @ 6 % per annum from passing of this order (i.e. 01.10.2025) till its realization as the counsel for the Appellants has waived the interest for the rest of the period. Accordingly, decree be drawn. The Appellants shall pay the Court fees on the enhanced amount of Rs.3,98,200/-. The Respondent No.2/Insurance Company shall pay Rs.3,98,200/- within a period of eight weeks from today with interest @ 6 %.

5. The First Appeal is accordingly disposed of. Pending applications, if any, also stand disposed of.

[Y.G. KHOBRADE, J.]