



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 276 OF 2021

1. Somnath S/o Govind Pathare,
Age : 50 years, Occu. : Agri & Business,
R/o. Burhannagar, Tq & Dist. Ahmednagar
2. Sow Vimal w/o. Somnath Pathare,
Age : 46 years, Occu. : Household,
R/o. Burhannagar, Tq. & Dist. Ahmednagar
3. Deepali D/o. Somnath Pathare,
Age : 22 years, Occu. : Education,
R/o. Burhannagar, Tq. & Dist. Ahmednagar

...Appellants
(Orig. Claimants)

Versus

1. Subhash S/o. Appasaheb Gade,
Age : Major, Occu. : Business,
R/o. Antapur, Tq. Patoda,
Dist. Beed.
2. The Divisional Manager,
Oriental Insurance Co. Ltd.
Ambar Plaza, Near Old Bus Stand,
Station Road, Ahmednagar.

... Respondents

.....
Mr. D. R. Markad, Advocate for Appellants.
Mr. Amarsinha S. Kakade, Advocate for Respondent No.1
Mr. A. G. Kanade, Advocate for Respondent No. 2.
.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 10 JULY 2025

PRONOUNCED ON : 21 JULY 2025

ORDER :

1. Instant appeal arises out of judgment and award dated 30.08.2016 passed by learned Member, Motor Accident Claims

Tribunal, Ahmednagar in M.A.C.P. No.06 of 2013, which was accident claim petition set up by present appellants i.e. by parents and sister of Deepak, who met with road traffic accident dated 16.12.2012 and died in the same.

2. In brief case set up in claim petition was that, on 16.12.2012, deceased Deepak was proceeding on his motorcycle bearing no. MH-16-Z-6808 from village Kolhar to Ahmednagar and his motorcycle was given dash by offending vehicle no. MH-12-EF-8888 causing serious injuries, to which he succumbed.

3. Claimants demanded Rs.12,00,000/- compensation under various heads. Claim petition was resisted by respondents/opponents in toto.

After appreciating the oral and documentary evidence, learned Tribunal was pleased to grant compensation to the tune of Rs.11,47,000/- under various heads and directed it to be paid jointly and severally by opponent nos.1 and 2 with 9% p.a. rate of interest.

4. Claimants have taken exception to the above amount primarily on the ground of meager compensation granted under various heads. That, there is failure to appreciate documentary and oral evidence in its correct perspective. That, earnings of deceased

and its loss due to his demise, has not been correctly appreciated. That, business earnings are not at all considered. Learned Tribunal erred in considering notional income in spite of availability of sufficient material about income and earnings of deceased.

5. Learned counsel for respondents supported the findings and conclusions reached at by learned Tribunal and prayed to dismiss the appeal for want of merits.

6. Re-appreciated and analyzed the entire evidence. There is no dispute in the appeal as regards to findings and conclusion reached at by learned Tribunal on the point of accident dated 16.12.2012 and there to be rash and negligent driving on the part of driver of the truck bearing no. MH-12-EF-8888. Stand taken by Insurance Company about breach of policy is also not considered by Tribunal. Therefore, virtually contest in the appeal is on the quantum of compensation.

7. It appears from the papers that, appellants had come up with a case that deceased conducted furniture business and earned Rs.20,000/- per month. According to them, he was skilled worker and as such his earnings should be considered at least around Rs.8,000/- per month. Deceased being bachelor, half of the income should be

deducted for personal expenses and that claimants are entitled for future prospects to the tune of 50% by applying multiplier of 18 in view of age of deceased including compensation under non peculiarly heads, claimants are entitled to total compensation to the tune of Rs.12,00,000/- with interest. However, claimants are dissatisfied by grant of only Rs.11,47,000/- and hence the appeal.

8. Perused the judgment impugned herein. There seems to be discussion on the entitlement of compensation in para 13. It is emerging therefrom that, learned trial court has considered the age of deceased as 24 and in absence of clear evidence about earnings and income, Tribunal proceeded to notional income i.e. Rs. 6,000 per month by considering deceased as a skilled worker. Fifty percent addition is made towards future prospects. Deceased being a bachelor and after adding the same, amount arrived is at Rs.9,000/-, by applying law laid down in ***Sarla Verma and Ors. Vs. Delhi Transport Corporation and Ors.***, AIR 2009 SC 3104 towards personal expenses half amount is deducted which comes to Rs.4,500/-. Thus, the annual loss of income is considered as Rs.54,000/-. Considering the age of Deepak to be 24 years, learned Tribunal has applied multiplier of 18 and reached to a figure of Rs.9,72,000/- which cannot be faulted at. To such figure, learned Tribunal has added amount of loss of consortium to the tune of Rs.50,000/- each of the applicant i.e.

Rs.1,50,000/- and under the head of loss of estate as well as transport and funeral expenses Rs.50,000/- and Rs.25,000, respectively have been awarded.

9. Thus, total compensation, to which claimants are held entitled is Rs.11,47,000/-. In appeal memo, para 3, it is asserted that compensation is restricted to the tune of Rs.12,00,000/-. However, even otherwise on going through the entire judgment, in the considered opinion of this court, learned Tribunal has apparently considered each and every aspect of the case and has appropriately compensated the claimants in a just and reasonable manner. Consequently no case being made out to interfere in the judgment and award of the Tribunal and there is no merits in the case.

10. The appeal stands dismissed.

(ABHAY S. WAGHWASE, J.)