



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2347 OF 2011

1. Smt. Minakshi w/o Sudhakar Bhusal,
Age 32 years, Occu. Household,
2. Kamlesh s/o Sudhakar Bhusal,
Age 14 years, Occu. Education,
(Minor, Through his real mother
guardian appellant no.1)
3. Smt. Kesarbai w/o Tatyasaheb Bhusal,
Age 57 years, Occ. Household,
4. Tatyasaheb s/o Karbhari Bhusal,
Age 62 years, Occu. Nil,

All R/o. Umbri-Balapur,
Taluka Sangamner,
District Ahmednagar.

... Appellants
(orig. claimants)

Versus

1. Vilas s/o Abaji Gunjal,
Age Major, Occu. Business,
R/o. Gunjalwadi, Tq. Sangamner,
District Ahmednagar.
2. Subhash s/o Narayan Thorat,
Age Major, Occu. Business,
R/o. Jorve, Taluka Sangamner,
District Ahmednagar.
3. The Divisional Manager,
United India Insurance Co. Ltd.,
Near Hotel 'Karam',
S.T. Stand, Sangamner,
Taluka Sangamner,
District Ahmednagar.

... Respondents
[Original Opponents]



.....

Mr. R. D. Bhalerao, Advocate for the Appellants.

Mr. Pravin D. Biradar h/f Mr. S. T. Shelke, Advocate for Respondent Nos. 1 and 2.

Mr. A. B. Gatne, Advocate for Respondent No.3

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 25.03.2026

Pronounced on : 26.03.2026

JUDGMENT :

1. Original claimants, who are dissatisfied by the quantum of compensation in M.A.C.P. No. 128 of 2009, have preferred instant appeal.

2. Learned counsel for the appellants would point out that, on account of death of Sudhakar, who is husband of original claimant no.1, in road traffic accident dated 21.03.2009, on her behalf as well as on behalf of minor and parents-in-law, by invoking Section 166 of Motor Vehicles Act, 1988 (MV Act), compensation to the tune of Rs.15,00,000/- was prayed for. He further submitted that, at the time of death, deceased was in service of Gangagiri Pat Sanstha and drawing salary of around 6,500/-. Coupled with it, he also conducted agricultural activity as well as milk business and earning Rs.9,000/- per month from the same. However, learned Tribunal has not



considered the said evidence and has merely granted meager compensation of Rs.4,70,270/-. That, applicants are in fact entitled to Rs.15,00,000/- under various heads and even entitlement to that extent was established before the Tribunal, but the same has not been correctly appreciated. Therefore, for grant of meager compensation, he urges for enhancement.

3. It is his next submission that there was overwhelming documentary evidence adduced by claimants apart from inquest, PM, policy, i.e. on the point of service and agricultural activity in the form of copy of 7/12 extract at Exhibit 49, and evidence of Ramnath Shinde at Exhibit 81 on the point of bills of milk supplied by deceased.

Resultantly, for above reasons, it is urged that, compensation be enhanced by allowing the appeal.

4. In answer to above, learned counsel for respondents justified the findings and observations of Tribunal and prayed to dismiss the appeal for want of merits.



5. After considering above submissions and on going through the record, it appears that wife and son of deceased Sudhakar as well as his parents, i.e. claimant nos. 3 and 4, filed M.A.C.P. No. 128 of 2009 on account of death of Sudhakar in road traffic accident dated 21.03.2009 on being hit by Jeep No. MH-20-AG-2139. The above claim petition seems to be contested by opponent nos. 1 and 2 owner and drive of the Jeep vide say at Exhibit 34, as well as insurance company opponent no.3 vide say at Exhibit 20.

6. Learned tribunal has, on complete appreciation of evidence, held that deceased as well as jeep driver are equally responsible and thereby attributed 50% liability to each of them. Such findings are recorded by learned Tribunal after studying the spot panchanama as well as substantive evidence of the Investigating Officer. The Tribunal has taken into account the directions in which both the vehicles were proceeding as well as the width of the road. Consequently, after complete analysis of the available record, finding to that extent has been recorded. Even otherwise, before this Court in appeal, there is no challenge to the impugned order on the point of rash and negligent driving though both, deceased as well as driver of jeep, are held equally responsible.



7. The only ground of challenge is the quantum and according to claimants, inadequate compensation has been granted than the one to which they were entitled to. Resultantly, impugned judgment is visited and it is noticed that in para 22, entitlement of compensation has been dealt with.

8. It is emerging that learned Tribunal has appreciated the oral evidence and meticulously considered the voluminous documentary evidence and it is so reflected in the above para 22. On the strength of pay slips Exhibits 68 to 79, monthly take home salary is considered as Rs.5,170/-.

9. As regards to ancillary income from allied business activity is concerned, learned tribunal has appreciated evidence of witness namely Ramnath Shinde and also took into account the bills placed at Exhibits 83 to 90. Total income of deceased is computed to the tune of Rs.6,770/- and taking into account strength of dependents left behind, 1/4th amount towards personal expenses is shown to be deducted by applying law laid down by the Hon'ble Apex Court in the case of *Sarla Verma and others v. Delhi Transport Corporation and others* (2009) 6 SCC 121. Total annual dependency has been computed to the tune of Rs.60,036/- i.e. 5003 X 12.



10. On the strength of available evidence, age of deceased as contended by claimants is considered and suitable multiplier is applied. Thereafter, in the light of specific finding of 50% negligence of deceased also in the said accident, entitlement of compensation has been determined. During appeal before this Court, no ground is raised about erroneous finding of equal contributory negligence on the part of deceased also.

11. Therefore, on taking review of the observations of learned Tribunal on the point of compensation, in the considered opinion of this Court, entitlement of compensation is decided on the strength and quality of evidence made available before the Tribunal. This Court does not find any reason to hold that there is grant of inadequate or meager compensation, as is tried to be put forth before this Court. Resultantly, there being no merit in the appeal, following order is passed :

ORDER

The First Appeal is dismissed.

[ABHAY S. WAGHWASE, J.]