(2026) 08 BOM CK 3029

In the Bombay High Court, Aurangabad Bench

Case No : First Appeal No. 177 of 2007

Ayesha Siddikha & Ors. APPELLANT

Vs

Mohd. Mohseen Khan & Anr. RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Motor Vehicle Act — Section 166
Shop Act

Citation : (2026) 08 BOM CK 3029

Hon'ble Judges : S. G. Chapalgaonkar, J

Bench : Single Bench

Advocate : Mr. S. S. Dargad, Ms. Asha Rakh, Mr. S. V. Kulkarni

Final Decision : Partly Allowed

Judgement

1. The appellants/original claimants filed this appeal aggrieved by judgment and award dated 16.10.2006 passed by Motor Accident Claims Tribunal, Ambajogai in MACP No.9/2005, whereby claim of appellants is partly allowed. They are seeking enhanced compensation by way of this Appeal. (Hereinafter, parties are referred to by their original status for the sake of convenience and brevity)

2. On 28.05.2004 deceased Khaja Mainoddin was proceeding in Toyota Qualis bearing Registration No.MH-23-H-3332. At about 3:30 am his vehicle was dashed against stationary truck causing injuries to inmates of vehicle. Khaja Mainoddin sustained fatal injuries in said accident. The claimants/dependents of Khaja Mainoddin filed MACP No.9/2005 before Tribunal at Ambajogai raising claim for compensation under Section 166 of Motor Vehicle Act.

3. The Tribunal on evaluation of evidence, allowed claim and awarded compensation of Rs.2,63,000/- alongwith interest @ 6% per annum, holding owner and insurer of vehicle jointly and severally liable to pay compensation. The respondent/Insurance Company has satisfied Award as passed by Tribunal. However, claimants being aggrieved by assessment of compensation filed this

Appeal.

4. Mr Dargad, learned Advocate appearing for appellants vehemently submits that deceased was expert in repair of Television and VCR sets. He was diploma holder from reputed Institute. He had valid Shop Act registration. The claimants have pleaded his income @ Rs.7000/- to Rs.8000/- per month. However, Tribunal worked out compensation by taking his notional income @ Rs.2000/- per month. According to Mr Dargad, deceased was 37 years of age at the time of accident, therefore, 40% amount of income ought to have been added towards his future prospects. Further, paltry sum is awarded towards non-pecuniary heads, which needs appropriate enhancement. He would, therefore, urge to modify award and grant just and proper compensation. Mr. Dargad heavily relies upon observations of Supreme Court in case of ***Naseema & Ors. Vs. Rajendra Singh & Ors.1***, wherein Supreme Court considered notional income of deceased Tea Stall owner @ Rs.5000/- per month in absence of income proof.

5. Mr. Kulkarni, learned Advocate appearing for respondent no.2 supports Award as passed by Tribunal.

6. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of record and proceeding received from Tribunal, this Court finds that only issue raised for reconsideration before this Court is as regards to computation of just and proper compensation. The Tribunal has arrived at conclusion that deceased was aged about 37 years at the time of accident. The claimants have placed on record documents relating to educational qualification of deceased. Apparently, he was Diploma holder in Colour Television and VCR repairs. He was also having valid Shop Act registration. The brother of deceased stepped into witness box and deposed about earning of deceased. He stated that deceased was earning Rs.7000/- to Rs.8000/- per month from Television repair shop. In next breath, he states that there were expenses of about Rs.2000/- per month towards rent of shop. This Court finds no difficulty in accepting aforesaid evidence. It is true that, apart from expenses towards rent, there may be other expenses like electricity bill etc.. In this backdrop, net income of deceased can be guessed @ Rs.4500/- per month. Apart from that looking to age of deceased, addition of 40% needs to be made towards loss of future prospects. There were three dependents of deceased, therefore, 1/3rd amount of his income needs to be deducted towards his personal and living expenses while working out dependency of claimants. The appropriate multiplier to age of deceased would be 15. This Court finds that lump-sum compensation of Rs.50,000/- can be added towards non-pecuniary heads, looking to the fact that accident occurred in year 2004. Hence, compensation can be re-assessed in following manner:

Sr. No.	**Heads**	**Amount (Rs.)**

1	Annual Income (Rs.4500 x 12)	Rs.54,000/-
2	Addition of 40% towards future prospects (Rs.54,000/- + Rs.21,600/-) =	Rs.75,600/-
3	1/3rd deduction towards personal and living expenses. Rs.75,600 / 3 = Rs.25,200/-(Rs.75,600/- - Rs.25,200/-)	Rs.50,400/-
4	Apply multiplier of '15' (Rs.50,400 x 15)	Rs.7,56,000/-
5	Rs.50,000/- to claimant nos.1 to 3 towards non-pecuniary heads	Rs.50,000/-
TOTAL		Rs.8,06,000/-

7. In view of aforesaid calculations, Award passed by Tribunal needs to be modified. Hence, following order:

ORDER

a. First Appeal is partly allowed.

b. The appellants/claimants are held entitled to receive compensation of Rs.8,06,000/- (Rs.Eight Lakhs Six Thousand only) alongwith interest @ 6% per annum on unpaid amount of compensation jointly and severely from respondents.

c. The compensation amount paid/deposited as per Award passed by Tribunal be appropriated.

d. The respondents shall deposit balance of compensation amount within period of 10 weeks from today.

e. Award be drawn accordingly on payment of Deficit Court Fees, if any.

f. The compensation be apportioned amongst claimants in equal proportion.

FOOTNOTES

1. **2026 (2) SC 634.**