



KANCHAN
PRASHANT
DHURI

Digitally signed
by KANCHAN
PRASHANT
DHURI
Date:
2026.05.02
15:03:37
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 636 OF 2000

Smt. Kalinoonisa w/o. Rashid Pathan,)
age about 25 years, Occupation: Household,)
Adult, R/at : Chitalsar, Shivaji Nagar,)
Manpada, Thane.) ... Appellant

Versus

1. **Arif Azizkhan (deleted)**)
2. **Shri Noorbhai Jamal Khorani**)
R/at: Hathikhana, At Dhoraji, Rajkot)
3. **Oriental Insurance Company Ltd.**)
Sardar Patel Bhavan at Junagad)
4. **Rashid Noorkhan Pathan**)
Age 28 years,)
Occupation : Motor Driver,)
Adult, R/at Chitalsar, Shivaji Nagar,)
Manpada, Thane.) ... Respondents

.....
Ms. Ketki Gokhale instructed by Mr. A.M. Gokhale, Advocate for the Appellant.

Mr. Rajesh Ranglani instructed by Ms. Minal Chandnani, Advocate for the Respondent No.3.

.....
CORAM : ABHAY AHUJA, J.
DATE : 30 APRIL 2026

ORAL JUDGMENT :

1. This Appeal impugning the Judgment and Order dated 8th December 1997 of Motor Accident Claims Tribunal, Thane in Motor Accident Claim Case No.462 of 1987 seeks enhancement of compensation primarily in respect of loss of dependency.

2. After hearing this matter, when there has been hardly any assistance rendered by the learned Counsel appearing in the matter, it emerges from a perusal of the decision of the Tribunal that the Tribunal has rejected the claim for grant of future dependency on the ground that the deceased was only a child of six years and that there was no evidence adduced to the effect as to what the child was going to become.

3. Ms. Gokhale, learned Counsel, appearing for the Appellant has tendered across the bar a decision of the Hon'ble Supreme Court, ***Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto and others***¹ and submits that this Court award Rs.5,00,000/- for the death of the child by accepting the notional earning of Rs.30,000/- including the future prospects and by applying multiplier of 15 in view of the decision of the Hon'ble Supreme Court in the case of ***Smt. Sarla Varma and others vs. Delhi Transport Corporation and another***², where loss of dependency aggregating to Rs.4,50,000/- and Rs.50,000/- under the conventional heads, total compensation coming to Rs.5,00,000/- was awarded. Ms. Gokhale submits that in similar facts, the Hon'ble Supreme Court has enhanced the compensation to Rs.5,00,000/- and that this Court may also follow the same course of action.

1 2023(1) SCC 204

2 (2009) 6 SCC 121

4. Mr. Ranglani, learned Counsel, appearing for the Respondent No.3 – Insurance Company seeks some time in the matter to take instructions.

5. Although time is being sought on behalf of the Respondent No.3-Insurance Company, I am of the view that it is not necessary to grant any time as notice had already been served and received earlier and the matter is of the year 2000 and cannot be delayed any further.

6. The Appellant and the Respondent No.4 are statedly the mother and father of the deceased and although the mother is the only Appellant it is submitted before this Court by Ms. Gokhale that the Respondent No.4 was also the Claimant alongwith the Appellant before the Tribunal and that therefore the Appeal for enhancement of compensation and particularly for compensation towards future dependency be awarded in line with the decision of Hon'ble Supreme Court in the case of *Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto and others (supra)*.

7. In the case of *Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto and others (supra)*, the Hon'ble Supreme Court has given a finding that the child who died in the road accident at the age of 12 years while playing in front of his house and studying in 5th Class in Nehru Academy, Giridih Road, Jamtara, Dumri was a brilliant

student of Class 5 as per the ocular statement given by her mother and if he had not met with the accident, he would have definitely become an officer in future and that it is in that factual matrix, the compensation was determined. However, in the facts of the present case, there is no such evidence. In fact the Tribunal has clearly recorded in paragraph 15 that although the Applicant No.1 has not even narrated the name of the school where his son was studying, although it has been claimed that the son was a convent school going boy, therefore, it could not be said that the deceased was studying in a convent school. The Tribunal has recorded that there is no evidence to that effect as to what the child would become and what he was going to earn.

8. However, in view of the settled law by the Hon'ble Supreme Court in the case of *Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto and others (supra)*, where the Hon'ble Supreme Court has not only reiterated the principle of considering the notional income including future prospects in the case of the deceased child but also approved the application of multiplier for calculating loss of dependency while granting compensation to the legal representatives of the deceased child, I am of the view that looking at the age of the child in the present case as six years and accepting the notional earning

of Rs.30,000/- in view of the decision of the Hon'ble Supreme Court in the case of *Kishan Gopal and another vs. Lala and others*³ including the future prospects and applying the multiplier of 15 in view of the decision of this Court in the case of *Smt. Sarla Varma and others vs. Delhi Transport Corporation and another (supra)*, the loss of dependency would come to Rs.4,50,000/-.

9. Since the minor was of 6 years and would have fully depended on his parents, he would have not have any personal expenses and therefore, to my mind, no deduction is required.

10. The Tribunal it is observed has granted a lumpsum compensation of Rs.35,000/- for mental agony and pain, expenses towards funeral and loss of love and affection. Therefore, since compensation under the conventional heads has already been awarded, it would not be necessary to disturb the same. Accordingly, in my view, the compensation awarded to the legal representatives be enhanced by Rs.4,50,000/-.

11. In view of the above, the Appellant and the Respondent No.4 are entitled to a total compensation of Rs.4,85,000/- inclusive of amount of compensation under no fault liability alongwith interest at the rate of 12% p.a. (as awarded by the Tribunal) to be paid by the

3 (2014) 1 SCC 244

Respondents No.2 and 3 jointly and severally from the date of filing of the Claim Application till realization to be distributed equally between the Applicant and the Respondent No.4, less the amount, if any, already withdrawn.

12. The Judgment and Order dated 8th December 1997 of Motor Accident Claims Tribunal, Thane in Motor Accident Claim Case No.462 of 1987 be modified to the above extent.

13. Let the enhanced amount of compensation alongwith interest be deposited in the Motor Accident Claims Tribunal, Thane, within a period of six weeks.

14. The Appeal is allowed as above. No costs.

(ABHAY AHUJA, J.)