



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1988 OF 2020

Future Generali General Insurance
Company Ltd.,
Block No. A, Ist Floor, Heritage House No. 6,
Ramabai Ambedkar Road,
Near Sohrab Hall, Pune.
District Pune 411 001.
Through its Manager
R/o : C/o Future Generali General
Insurance Company Ltd.,
Elphinstone Road, Mumbai

... Appellant
(Orig. Res. No.3)

Versus

- 1] Smt. Sangita w/o Dhondiram Pawar
Age 35 years, Occu. Household,
- 2] Sujata d/o. Dhondiram Pawar
Age 11 years, Occu. Education
- 3] Amrata d/o Dhondiram Pawar
Age 9 years, Occu. Education
- 4] Shivam s/o Dhondiram Pawar
Age 3 years, Occu. Nil
Respondent No.2 to 4 are minors
Under guardianship of their
natural mother Respondent No.1

All R/o. Sai, Tq. & Dist. Latur.

... (Ori. Claimants)

- 5] Pandurang s/o. Harihar Chavan,
Age Major, Occu. Driver,
R/o. Nagangaon, Post Vassa
Tq. Jintur, Dist. Parbhani
(Driver of Truck No. MH12/EQ0504)

... (Ori. R. No.1)

- 6] Mr. Atul s/o Kantilal Dhoot,
Age 45 years, Occu. Business,

R/o. 470/71 Shukrawar Peth N,
Gulmohar Apartment,
Flat No. 7/7/8, Subhash Nagar Lane
No.1 Pune, Dist Pune 411 001.
(owner of Truck No. MH 12/EQ 0504)

... Ori. Resp. No.2

... Respondents

.....

Mr. S. S. Patil, Advocate for the Appellant
Mr. R. B. Deshpande for Respondent Nos. 1 to 4
Mr. T. C. Shinde, Advocate for Respondent Nos. 5 and 6

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 23 SEPTEMBER 2025

Pronounced on : 30 SEPTEMBER 2025

JUDGMENT :-

1. Instant First Appeal by Insurance company hereby takes exception to the judgment and award dated 12.12.2019 passed by learned Member, M.A.C.T., Latur in M.A.C.P. No. 270 of 2017.

FACTS GIVING RISE TO THE INSTANT APPEAL ARE AS UNDER :

2. Present respondent nos. 1 to 4 filed above claim in the capacity of LRs of deceased Dhondiram, setting up a case that on 24.08.2017 while Dhondiram was proceeding on his motorcycle bearing No. MH 24/R-8223, he was given dash by truck bearing No. MH 12/EQ-0504 from backside. Dhondiram expired on the spot and crime was registered against the truck driver. Further case was set up that at the time of death, Dhondiram was working in Akshay Fertilizer as a

Manager and was earning salary of Rs.12,000/- per month and also received additional bhatta to the tune of Rs.100/- per day. Dhondiram was the sole bread earner of the family and on account of his accidental death, claimants have lost their sole source of earning and under various heads, they set up a claim of compensation of Rs.33,12,600/-. Their specific case was that respondent nos. 1, 2 and 3 i.e. driver, owner and insurer of the truck are liable to pay the compensation.

3. Learned Tribunal issued notice and permitted parties to adduce evidence and after appreciating the same, partly allowed it by directing respondents to jointly and severally pay compensation to the tune of Rs.24,58,000/- with 9% rate of interest.

Feeling aggrieved by the above, insurance company-original respondent no.3 has preferred instant Appeal on various grounds mentioned in the appeal memo.

4. Heard. Perused the record and impugned judgment. Sum and substance of the argument made by learned counsel for the insurance company is that, insurance company is taking exception only to the quantum of compensation. He pointed out that, claimants set up a

case about deceased Dhondiram to be working as Manager and earning Rs.12,000/- per month by way of salary and allegedly examined witness Sampat (CW-2) as well as produced Income Tax Returns. However, according to him, there is no positive and legally acceptable evidence that deceased Dhondiram alone earned Rs.12,000/- salary per month and moreover, deceased is not demonstrated to be even in permanent employment. He pointed out that, income tax returns placed on record does not clearly specify about above salary quoted by respondents-original claimants. That, there were two employees including deceased Dhondiram and therefore, if at all quantum of salary is reflected in the income tax returns, each of the employee could have earned only Rs.5,000/- each. According to him, learned tribunal has failed to consider this aspect and has considered salary to the tune of Rs.10,000/- and additional amount. He further took exception to the computation done by tribunal regarding deduction towards personal expenses and took this court through the calculations reflected in the impugned judgment in para 13 and 14. However, he fairly conceded that tribunal has failed to grant compensation @ 50% increase towards future prospects which the claimants were entitled to as per the law laid down in *National Insurance Company Limited v. Pranay Sethi and Others* 2017 (6) BomCR 791/AIR 2017 SC 5157.

5. In answer to above, learned counsel for original claimants pointed out that claimants had proved salary income of deceased by examining witness CW2 Sampat. He also submitted that, salary certificate was placed on record and it is got proved and exhibited at Exhibit 48. According to him, there is no effective cross on the point of payment of Income Tax or its Returns. He also justifies the computation and would submit that, calculations are correct and it is inclusive of personal expenses of deceased while deducting the entitlement of compensation. For above reasons, he urges to consider future prospects and dismiss the appeal filed by insurance company. He seeks reliance on judgment of this Court in ***Sushila wd/o Subhash Mendhe & Anr v. National Insurance Company Limited & Others*** reported in 2019 (1) All MR 658 and ***Jaya Biswal & Others v. Branch Manager, Iffco Tokio General Insurance Company Ltd. & Anr.*** 2016 ALL SCR 657 for consideration of salary income.

6. After considering the above submissions and on going through the evidence as well as impugned judgment, there does not seem to be any dispute in this Appeal regarding negligence. As regards to quantum is concerned, according to insurance company, there was no legally acceptable evidence about salary for above reasons.

7. Perused the evidence, more particularly of CW2 Sampat, as he is the witness on the point of income of deceased. Through this witness, Exhibit 48 is proved. Therefore, the same needs to be considered when particularly witness has been examined on the point of income.

There is no reason to not to consider his evidence to accept the claim about deceased earning Rs.12,000/- per month. There is no evidence about payment of additional amount or Bhatta.

8. Calculations and computations from paragraphs 12 to 14 are re-visited and re-assessed. Learned Tribunal has considered monthly salary as Rs.12,000/- and after deducting $\frac{1}{4}$ th amount from it (i.e. $12,000 - 3000 = 9000$) towards personal expenses, added 40% towards future prospects (i.e. $9000 + 3600 = 12,600$). As pointed out by learned counsel, learned Tribunal has failed to award addition of 50% amount, in stead of 40%, entitled under future prospects as per the ratio laid down in *Pranay Sethi* (supra) and hence the same deserves to be granted.

9. In view of the above discussion, in the considered opinion of this Court, the respondents-claimants are entitled for following compensation :

Sr. No.	Heads	Amount (Rs.)
1	Monthly Income (as computed by the Tribunal)	Rs.12,000/-
2	After 1/4 th deduction towards personal expenses (as computed by the Tribunal)	Rs.9,000/-
3	After addition of 50% towards future prospects (9000 + 4500)	Rs.13,500/-
4.	Annual income (13,500 X 12)	1,62,000/-
3	Multiplier of 15 (1,62,000 X 15)	Rs.24,30,000/-
5	Non-pecuniary Loses :- Loss of Estate = Rs.15,000/- (as awarded by Tribunal) Funeral Expenses = Rs.15,000/- (as awarded by Tribunal) Loss of consortium = Rs.1,60,000/- (as awarded by Tribunal)	Rs.1,90,000/-
6	Total compensation to be paid (i.e. 24,30,000 + 1,90,000)	Rs.26,20,000/-
7	Compensation awarded by the Tribunal	Rs.24,58,000/-
8	Total Enhanced Compensation (26,20,000 – 24,58,000)	Rs.1,62,000/-

10. In the result, following order is passed :

ORDER

- I. The First Appeal, which is at the instance of the Insurance Company, is hereby dismissed.
- II. The impugned judgment and award dated 12.12.2019, passed by the Adhoc DJ-1 and Ex-officio Member of MACT, Latur in M.A.C.P. No. 270 of 2017 is modified.
- III. The appellant Insurance Company to pay enhanced compensation of Rs.1,62,000/- to the claimants within 12 weeks from today along with interest @ 6% per annum from the date of registration of claim petition till its realization.
- IV. Modified award be prepared accordingly.
- V. Claimants to pay court fees on the enhanced compensation as per rules.
- VI. On deposit of the amount by the Insurance Company, claimants are permitted to withdraw the same.

[ABHAY S. WAGHWASE, J.]