

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 547 OF 2001

1. Shivprasad Laduram Indoriya,
Age : 47 Years, Occu. : Nil,
R/o Maratha Building,
Gavalipura, Jalna, Dist. Jalna.
2. Rukhminbai W/o Shivprasad Indoriya,
Age : 42 Years, Occu. : Nil,
R/o As above.
3. Anita D/o Shivprasad Indoriya,
Age : 20 Years, Occu. : Education,
R/o as above. .. Appellants

Versus

1. Sk. Jalil S/o Sk. Hussain,
Age : Major, Occu. : Business
(Owner of Vehicle Tata 1210
Tanker No. MWP 9578)
R/o Rehemankhan Ex-M/N
Station Road, Parbhani,
Tq. & Dist. Parbhani.
2. The Manager, Oriental Insurance Co.
Ltd., Through its local office at
Gandhi Chaman Old, Jalna.
3. Dayaneshwar S/o Bhujangrao Dongre,
Age : Major, Occu. : Business & Agril.,
(Owner of Jeep bearing No. MH-21/
A-8562) R/o Sawargaon Hadap,
Tq. & Dist. Jalna.

4. Manager, The New India Insurance Co.
Ltd., Through its Local Office at
Jalna, Tq. & Dist. Jalna. .. Respondents

Shri P. F. Patni, Advocate for Appellants.

The Respondent No. 1 is served.

Shri R. F. Totala, Advocate for the Respondent No. 2.

Shri B. R. Sontakke Patil, Advocate for the Respondent No. 3.

Shri A. G. Kanade, Advocate for the Respondent No. 4.

CORAM : S. V. GANGAPURWALA, J.

DATE : 25TH AUGUST, 2015.

ORAL JUDGMENT :

. Mr. Patni, the learned counsel for appellants submits that, the present appellants had filed claim petition U/Sec. 166 of the Motor Vehicles Act claiming compensation on account of death of deceased Anand who died in a vehicular accident. The learned counsel submits that, the deceased was possessing degree of D. Pharmacy and he was working with pharmaceutical company as a Medical Representative. He was drawing salary of Rs. 5,000/- per month. The said certificate is disbelieved on the ground that, representative of the said company is not examined. Even if said certificate is not proved, considering the fact that deceased was a skilled person salary of Rs. 4,000/- per month was reasonable and proper. The learned counsel relies on the judgment of the Apex Court in a case of Minu Rout and another Vs. Satya Pradyumna Mohapatra and others reported in **2014 (2) Mh.L.J. 534** to contend that even salary of a driver was

considered to Rs. 6,000/- per month. The learned counsel further submits that, as such deductions towards personal expenses should not have been more than 1/3. The Tribunal has wrongly deducted 1/2 towards the personal expenses. The learned counsel further submits that, towards loss of love and affection nothing has been awarded, so also for funeral expenses.

2. Mr. Totala, the learned counsel submits that, the Tribunal has rightly considered all the relevant aspects of the matter and has awarded just and reasonable amount of compensation. The dependency is also rightly considered. The income is also rightly computed. No error has been committed by the Tribunal while awarding quantum of compensation. The accident is of the year 1998. The circumstances prevailing at the said relevant time are to be considered and not as on today. The learned counsel further submits that, if, the amount of compensation is enhanced, then in that case the rate of interest should not be awarded from the date of petition and same should be awarded from the date of passing of the present order.

3. I have considered the submissions. The factum of accident is not disputed. All other factual matrix are not disputed except the quantum of income. The judgment in a case of **Minu Rout and another Vs. Satya Pradyumna Mohapatra and others** referred supra was in respect of an accident of the year

2005. Here, it is accident of the year 1998. Rs. 3,000/- per month has been considered by the Tribunal. The same appears to be reasonable and proper. The deceased was bachelor and deductions towards personal expenses is made which is just and proper. The submissions of Mr. Totala cannot be accepted, as right of compensation accrued is on the date of accident.

4. As far as multiplier is concerned, the age of deceased has been considered as 21 years, as such multiplier of 18 ought to have been applied. If multiplier of 18 is applied the loss of dependency would be Rs. 3,24,000/-. No amount has been awarded towards loss of love and affection. The parents certainly would be entitled for Rs. 50,000/- each under the said head. Towards the funeral expenses the claimants would be entitled for an amount of Rs. 25,000/-.

5. In the result I pass the following order.

6. The respondent Nos. 1 and 2 are jointly and severally liable to pay an amount of Rs. 4,49,000/- along with interest at the rate of 12% per annum from the date of petition till its realization inclusive of no fault liability amount. Out of the said amount of Rs. 4,49,000/- the claimant No. 3 shall be paid an amount of Rs. 49,000/- and claimant Nos. 1 and 2 shall be paid an amount of Rs. 4,00,000/-. The amount already paid shall be adjusted as on

the date it is paid. The appellants shall pay the additional court fees on the amount of compensation. The first appeal accordingly is partly allowed. No costs.

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/Aug. 15