

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

FIRST APPEAL NO. 2680 OF 2010

1. Jeevan Gunwantrao Patil,
Age 60 years, Occu. Agri.,
R/o. Vishal Housing Society,
Near Krupa Sadan School,
Latur, Tal. & Dist. Latur.
2. Kamal Jeewanrao Patil,
Age 50 years, Occu. household,
R/o. Vishal Housing Society,
Near Krupa Sadan School,
Latur, Tal. & Dist. Latur.

....Appellant.
(Ori. Claimants)

Versus

1. Satpal Gyanchand Chaudhary,
Age Major, Occu. Driver,
R/o. Rishi Store, Chandivali
Farm Sakinaka, Mumbai.
2. Mohosingh Sakpal Chaudhary,
Age Major, Occu. Truck owner,
E-5, Tiwarichawl Mohili Village
Sakinaka Pipeline Andheri (E),
Sakinaka, Mumbai.
3. Bajaj Allianz General Insurance
Co. Ltd., Through its Manager,
Through its Branch Office,
At Latur.

....Respondents.

Mr. Manoj Shinde h/f. S.G. Rudrawar, Advocate for appellants.

Mr. S.G. Chapalgaonkar, Advocate for respondent No. 3.

CORAM : T.V. NALAWADE, J.
DATED : 1st March, 2016.

JUDGMENT :

1) The appeal is filed against the judgment and award of Claim Petition No. 220/2009, which was pending before the Claims Tribunal, Latur. The claimants have filed the appeal as they are not satisfied with the quantum of compensation. Both the sides are heard.

2) The accident took place on 14.8.2008 at about 6.30 p.m. Deceased Deepak was aged about 19 years 4 months and he was student of B.E. course. He died on the spot in the accident. The claim was made by the parents of the deceased.

3) It is the case of parents that deceased would have given support to them during their old age. It is their case that the deceased had good academic carrier and on the basis of marks secured by him in 12th standard examination, he had got admission to engineering course. Under various heads, they had claimed compensation of Rs. 10,00,000/-.

4) The claim was contested by Insurance Company by filing written statement.

5) To substantiate the claim, claimant No. 1, father

gave evidence, which is as per aforesaid contentions. The record like passing certificate of 12th standard examination is produced to show that deceased had secured more than 60% marks. Bonafide certificate issued by Maharashtra College of Engineering, Latur is produced to show that admission was given to the deceased in Engineering College for first year Engineering course for the year 2007-08.

6) The Tribunal has presumed that notional income of the deceased was Rs. 3,000/-. From this amount, the Tribunal has deducted 50% amount for personal expenses as deceased was unmarried. The Tribunal has adopted 11 as multiplier for calculation of loss of dependency. Total amount of Rs. 10,000/- is given under the head like amount spent on funeral and conveyance. No compensation is given under any other heads and the total amount of Rs. 2,08,000/- is awarded as compensation on the principle of fault.

7) The learned counsel for appellants, original claimants placed reliance on the cases reported as **LAWS (SC)-2015-3-92 [Asha Verman Vs. Maharaj Singh]** and **2014 (5) SCJ 513 [V. Mekala Vs. M. Malathi and Anr.]**.

8) In the cases on which reliance is placed by the learned counsel for claimants, observations are made with regard to the presumption of notional income and giving compensation under different heads like loss of dependency, loss of love and affection etc. In the present matter, the deceased had secured more than 64% marks in 12th standard examination and he was given admission by Engineering College for B.E. course. In the year 2008, even ordinary labour was getting income of more than Rs. 3,000/- p.m. The deceased had the capacity to earn more than ordinary labour. Even if future prospectus of deceased are ignored, it can be said that the deceased was in position to earn atleast Rs. 4500/- p.m. 50% amount can be deducted towards personal expenses. So, there is monthly loss of Rs. 2250/- to the claimants. In view of the age of the deceased, 18 can be adopted as multiplier for calculation of loss of dependency. The total amount comes to Rs. 4,86,000/- ($2250 \times 12 \times 18$). This Court holds that amount of Rs. 50,000/- can be given to the parents under the head of loss of love and affection and the amount of Rs. 15,000/- can be given under the head of amount spent on funeral expenses and conveyance. Thus, the total amount of Rs. 5,51,000/- needs to be given. The interest at the rate of 9% p.a. needs to be given as such rate is given by nationalised banks at the relevant time. The Tribunal

has given interest at the rate of 6% p.a. only. In the result, following order is made.

ORDER

Appeal is allowed. Judgment and award of the Tribunal is modified to make the compensation Rs. 5,51,000/- (Rupees five lakh fifty one thousand). Interest at the rate of 9% p.a. will be payable from the date of petition till the date of realisation. Amount, if any, already paid is to be deducted from the amount.

[T.V. NALAWADE, J.]

ssc/