IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

5 FIRST APPEAL NO. 780 OF 2002

1. Miss Sakhubai d/o Madhukar Wagh
   Age: 12 years, Occu.: Education.

2. Miss Mangala d/o Madhukar Wagh
   Age: 14 years, Occu.: Nil,
   Through their minor Guardian
   Applicant Nos.3 and 4.

3. Laxman Ganpat Wagh
   Age: 68 years, Occu.: Agril.,

4. Kalabai Laxman Wagh
   Age: 63 years, Occu.: Nil,
   All: R/o.Pimpalgaon-Ujjaini,
   Taluka-Nagar, Dist.Ahmednagar. ..Appellants

VERSUS

1. Shaikh Nazir Channubhai
   Age: 58 years, Occu.: Business,
   R/o.Station Road, Ahmednagar.

2. Rohidas Keshav Patole
   Age: 38 years, Occu.: Driver,
   R/o.Brudgaon, Taluka and Dist.
   Ahmednagar.

3. Oriental Insurance Company,
   Ahmednagar Branch, Ahmednagar. ..Respondents

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Appeal is dismissed against respondent No.2 vide Court's order dated 21.9.2004.

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Advocate for Appellant : Mr.Dnyaneshwar Patil h/f.
Mr.M.Y.Deshmukh
Advocate for Respondent No.1 : Mr.N.C.Garud (absent)
Advocate for Respondent No.3 : Mr.L.B.Pallod (absent)

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CORAM : M.S.SONAK, J.
DATE : 2nd February, 2018

ORAL JUDGMENT:-

1) Heard Mr.Dnyaneshwar Patil learned counsel for the appellants. This appeal is directed against the Judgment and award dated 4.1.1996 made by the Motor Accident Claims Tribunal, Ahmednagar. The learned counsel for the appellants submits that the wages of the deceased Madhukar should have been held as Rs.900/- per month since at the relevant time, daily wages were Rs.30/- per day. As per the decision in the case of *National Insurance Company Limited Vs. Pranay Sethi and ors. [**2017 SCC Online, SC 1270**]*, an addition of 40% was due towards future prospects. He submits that no award has

been made towards non-pecuniary benefits like loss of consortium, funeral expenses, loss of estate, loss of love and affection etc. He submits that atleast a sum of Rs.70,000/- is due on account of the non-pecuniary benefits. He submits that the interest has been unnecessarily restricted for the period commencing from 9.11.1993. Instead, he submits that interest should have been awarded from the date of application. On all these grounds, he submits that the compensation as claimed in the appeal is required to be granted.

2) The respondent Nos.1 and 3, though served, neither present nor represented.

3) In this case, the claimants had claimed compensation of Rs.1,50,000/- on account of demise of Madhukar. The claimants are widow, two minor children and two parents.

4) In this case, the deceased Madhukar was 26 years of

age and claimants have deposed that he was drawing salary of Rs.800/- to Rs.900/- per month. The Tribunal has however, taken the income @ Rs.500/- to Rs.600/- per month. The dependency has been taken @ Rs.400/- after making deductions towards personal expenses of deceased Madhukar.

5) Taking into consideration the date of accident and the prevalent rates of minimum wages, the depedency in this case ought to have been taken to Rs.600/- per month. To this, an addition of 40% was due towards future prospects. Besides, the Tribunal does not have awarded significant amount towards non-pecuniary damages. The multiplier of 14 taken by the Tribunal is incorrect and correct multiplier should have been 17. With all these factors taking into consideration, the award of Rs.77,200/- made by the Tribunal is indeed less and required to be enhanced to the claimed amount of Rs.1,50,000/-. Accordingly, the appeal is allowed and

the compensation amount is enhanced to Rs.1,50,000/- as claimed. This amount will carry interest at the awarded rate of 12% p.a. from the date of the application which is 24.3.1988 and not from 9.11.1993.

6) It is true that the Insurance Policy earlier submitted by the claimants was not accurate, however, there is no dispute that the vehicle was insured. In any case, there is no reason to deprive claimants interest from the date of application. Infact, the compensation amount will come to greater than Rs.1,50,000/-. However, taking into consideration that accident had taken place in the year 1987 and further since, the interest awarded was @ 12%, which itself is quite high and further circumstance that the interest ordered to be paid from the date of application i.e. 24.3.1988, the appellants are held entitled to compensation of Rs.1,50,000/- as prayed for by them.

7) This appeal is therefore, allowed to the aforesaid extent.

8) The Insurance Company to workout the differential compensation in terms of this Judgment and award and pay the same to the appellants, within a period of two months from today.

9) The Insurance Company is at liberty to deposit the amount before the concerned Motor Accident Claims Tribunal, within two months from today and thereafter, the appellants are permitted to withdraw deposited amount unconditionally.

[M.S.SONAK, J.]