

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

948 FIRST APPEAL NO.2188 OF 2013

1. Smt.Bhagiratibai w/o. Ramnath Jite
Age: About 40 years, Occu.: Household
 2. Ramnath Maruti Jite
Age: 43 years, Occu.: Nil
 3. Lalita Ramnath Jite
Age: 18 years, Occu.: Household,
All above R/o. Golegaon, Tq.Khultabad,
Dist.Aurangabad.
- ..Appellants
(Claimants)

VERSUS

1. Sayed Majhar Sayed Dilawar
Age: Major, Occu.: Driver
R/o.Shirajgaon, Tq.Khamgaon,
Dist.Buldhana.
 2. Ashok Kumar Gokulchand Sananda
Age: Major, Occu.: Business,
R/o. of Gandhi Chowk, Tq.Khamgaon,
Dist.Buldhana.
 3. Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Adalat Road, Aurangabad.
- ..Respondents

...
Advocate for Appellants : Shri M.R.Deshmukh
Advocate for Respondent No.2 : Shri S.B.Khan (absent)
Advocate for Respondent No.3 : Shri Arun G. Kanade

...
CORAM : P.R.BORA, J.
DATE: 6th February, 2019

ORAL JUDGMENT:-

- 1 The claimants in Motor Accident Claim Petition No.517 of 2010 decided by the Motor Accident Claims Tribunal, Aurangabad

vide Judgment and order delivered by the said Tribunal on 14.10.2011, have preferred the present appeal seeking enhancement in the amount of compensation so awarded by the Tribunal.

2 Since most of the facts are undisputed, I do not find it necessary to reproduce the said facts as about occurrence of the accident, vehicle number, negligence etc. In the present appeal, the award passed by the Tribunal has been challenged and the enhancement in the amount of compensation awarded by the Tribunal is sought on three grounds; first that the Tribunal has applied multiplier based on the age of parents of deceased, whereas it should have been based on the age of the deceased, second is that the Tribunal has not awarded any compensation towards future prospects of the deceased and third that the non-pecuniary damages as has been awarded by the Tribunal are inadequate.

3 Shri A.G.Kanade, learned Counsel appearing for the respondent Insurance Company though sought to contend that there were no pleadings as about future prospects, I am not convinced with the submission so made. As per the guidelines laid down in the case of **Smt.Sarla Verma & ors. Vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, which are

reiterated in the case of ***National Insurance Company Limited Vs. Pranay Sethi and Ors. [(2017) 16 SCC, 680]***, the future prospects of the deceased must be considered in the present case. The deceased was working in the Indian Army meaning thereby that he was in the permanent employment of the Government. Having considered the age of the deceased and his permanent employment with the Government, 50% of his existing income was liable to be added in his annual income at the relevant time for determining the amount of dependency compensation. With regard to second aspect, the learned Counsel for the Insurance Company has fairly conceded that appropriate multiplier in the present case would be 18 having regard to the age of the deceased. The third aspect has also been fairly conceded by the learned Counsel for the Insurance Company that non-pecuniary damages are to be in tune with law laid down in the case of ***Pranay Sethi and Ors.*** (supra).

4 In view of the submissions so made, amount of compensation needs to be enhanced in the following manner;

From the material on record it is revealed that after statutory deduction, the monthly salary of deceased was Rs.14,119/- per month, which annually comes to Rs.1,69,428/-, 50% of the same will have to be added in the said amount

towards his future prospects. The said amount comes to Rs.84,714/-. Adding this amount in the annual income, his income for assessing the amount of dependency compensation comes to Rs.2,54,142/-. Half of the said amount would be liable to be deducted towards the personal expenses and living expenses of the deceased, whereupon, the net amount comes to Rs.1,27,071/- and the same has to be multiplied by multiplier of 18, whereupon the amount of compensation comes to Rs.22,87,278/-. In the said amount, a sum of Rs.70,000/- is liable to be added towards non-pecuniary damages. Adding the same, the amount of compensation comes to Rs.23,57,278/-. In the facts and circumstances of the present case, it appears to me that this would be the just and fair compensation payable to the appellants - claimants. In the result, the following order is passed:-

ORDER

- I) The appellants - claimants are held entitled for the enhanced compensation of Rs.9,87,278/- with interest thereon @ 9% p.a. from the date of filing of the petition before the Motor Accident Claims Tribunal, Aurangabad.
- II) The appeal stands allowed in the aforesaid terms.

(P.R.BORA)
JUDGE