IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT AURANGABAD

FIRST APPAL NO. 3014 OF 2013

1. Vanmala Ambadas Doiphode,
Age; 45 years, Occ; Household,
R/o; WN-IB-7, Bhakti Construction,
Eknath Nagar, Beed,
Tq. & Dist. Beed.

2. Amol Ambadas Doiphode,
Age; 22 years, Occ; Education,
R/o; As above.

3. Swapnil Ambadas Doiphode,
Age; 19 years, Occ; Household,
R/o; As above. **APPELLANTS**
(Original Claimants)

VERSUS

1) Datta Sopan Shinde,
Age; 45 years, Occ; Business,
R/o; Ghavan, Latur,
Tq. & Dist. Latur.

2. Cholamandalam M.S. General,
Insurance Co. Ltd.,
Through its Manager (Claims),
Office at Wellesly Court,
3rd Floor,
Above BMW Showroom,
Near Lal Deval Camp, Pune,
Tq. & Dist. Pune. **RESPONDENTS**
(Original Opponents)

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Shri. G.S. Rane, Advocate for Appellants
Smt. Laxmi R. Thakur, h/f Mr. L.C. Patil,
Advocate for respondent No. 1.

Shri S.G. Chapalgaonkar, Advocate for respondent No. 2.

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CORAM : SUNIL K. KOTWAL, J.

Date of Judgment : 17/06/2019

JUDGMENT :

This appeal is preferred by the Original Claimants in Motor Accident Claim Petition No. 292 of 2011 against the judgment and award passed by the Motor Accident Claims Trbunal, Beed (hereinafter referred to as "Tribunal" for short), for enhancement of compensation awarded by the Tribunal. Respondent No. 1 is owner and respondent No. 2 is the Insurer of the offending vehicle.

2. As the purpose of this appeal is only for enhancement of compensation, the facts of the case, need no consideration, except that the fact that the deceased was 48 years old at the time of death and he was in permanent job as Branch Manager in Maharashtra Gramin Bank at Vida.

3. Heard Shri G.S. Rane, learned counsel for Appellants, Smt. Laxmi R. Thakur, h/f Mr. L.C.

Patil, learned counsel for respondent No. 1 and Shri S.G. Chapalgaonkar, learned counsel for respondent No. 2.

4. It is pointed that while assessing the monthly income of the deceased, the Tribunal erroneously deducted installments of Society Loan and Home Loan from the total salary of the deceased. My attention was drawn towards the salary certificate (Exh. 40).

5. Learned counsel for Insurer vehemently pointed out that under the conventional head maximum Rs. 7,000/- can be awarded. He has not disputed that except taxes, other deductions cannot be deducted from total salary, while assessing monthly income of the deceased.

6. After going through the salary certificate (Exh. 40), it becomes clear that at the time of death, monthly salary of the deceased was Rs. 47,668.50/-. Out of this gross salary, if professional tax Rs. 200/- and income tax Rs. 2,000/- are deducted, the monthly income of the

deceased comes to Rs. 45,468.50/-. It follows that annual income of the deceased comes to Rs. 5,45,622/-. After deducting 1/3rd income towards personal expenses of the claimant who are three in number, the annual income of the deceased available to his family comes to Rs. 3,63,748/-.

7. As the deceased was in permanent service at the age of 48 years, in view of guidelines issued by the Apex Court in "**National Insurance Company Ltd. vs Pranay Sethi and others" [2018 (3) Mh.L.J. 70]**, there should be 30% addition in the income of the deceased. After addition of 30% amount towards loss of future prospect, the income of the deceased available to his family comes to Rs. 4,72,872.40.

8. As the deceased was 48 years old, the multiplier of '13' is applicable in the case at hand. Thus, the loss of dependency comes to Rs. 61,47,341.20/-. In addition to this, the claimants are entitled to following compensation under conventional heads.

Sr. No.	Particulars	Amount in Rs.
1)	Loss of consortium	40,000
2)	Loss of estate	15,000
3)	Funeral expenses	15,000
	Total	70,000

9. Thus, the claimants are entitled for following compensation under different heads :

Sr. No.	Particulars	Amount in Rs.
1)	Loss of dependency	61,47,341.20
2)	Loss of consortium	40,000
2)	Loss of estate	15,000
3)	Funeral expenses	15,000
	Total	62,17,341.20

10. The claimants are also entitled to interest on the compensation amount @ 9% p.a. from the date of filing of the claim petition till the realization. On deposit of entire compensation

amount the claimants are entitled to equal share in the compensation amount. By this time all the claimants have become major, therefore, only 30% amount of compensation payable to the claimants shall be invested in their respective names in fixed deposit in any nationalized bank for the period of three years.

11. Rest of the compensation amount shall be paid to the claimants through the Tribunal by separate account payee cheques issued in their respective individual names. Award be modified in above said terms.

12. Appeal is disposed of as partly allowed.

13. Parties to bear their respective costs of appeal.

(SUNIL K. KOTWAL)
JUDGE

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