IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 146 OF 2006

Gangubai Dagduba Pathade and another … Appellants

Versus

Milind Daulatrao Dhuldhule and another … Respondents

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Mr. M. P. Kale, Advocate for appellants
Mr. A. S. Deshmukh, Advocate for respondent No.1
Mr. A. B. Gatne, Advocate for respondent No.2

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CORAM : R. G. AVACHAT, J.

DATED : 04th OCTOBER, 2021

PER COURT :-

. Heard.

2. This appeal has been preferred for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Parbhani in Motor Accident Claim Petition No.320 of 2003.

3. The appellants herein are the widow and the son of the deceased, who died in the vehicular accident which took place on 06.06.2003. Enhancement has been sought in terms of the directions of the Constitution Bench judgment in case of ***National Insurance Company Limited Vs Pranay Sethi and others – (2017) 16 SCC 680.***

4. Learned Advocate for the respondent - Insurance Company would submit that the claim dates back to 2003. The amount which has been awarded under the impugned award is just and proper. Even the rate at which the interest has been awarded is on higher side. He, therefore, urged for dismissal of the appeal.

5. The deceased was said to have been serving as a Supervisor with one Ramji Birla at monthly pay of Rs.2,500/-. There is, however, no concrete evidence about the income of the deceased. The Tribunal, therefore, considered it notionally at Rs.15,000/- per annum. 1/3rd thereof has been deducted therefrom towards personal and living expenses of the deceased and applying the multiplier of 14, loss of dependency was worked out at Rs.1,40,000/-. A sum of Rs.25,000/- has been awarded towards loss of estate, funeral expenses and loss of consortium. The judgment in ***Pranay Sethi*** case was not in field when the impugned award was passed. The appeal is continuation of the original proceedings, the same would necessarily be governed by the law declared by the Apex Court in ***Pranay Sethi's*** case. This Court is therefore inclined to re-work out the amount of compensation as under:-

6. Since it is a case of death in the year 2003, notional income of the deceased is considered at Rs.1500/- per month. Annual income of the deceased would come Rs.18,000/-. A sum of Rs.4,500/- is added towards future prospects (25%). Therefore, it comes to Rs.22,500/-. 1/3rd thereof is deducted towards personal and living expenses. It comes to Rs.15,000/-. Applying the multiplier of 14 thereto, since the deceased was around 40 years of age, the amount of compensation comes to Rs.2,10,000/-. Each of the claimants is awarded Rs.40,000/- towards loss of love and affection. Besides a sum of Rs.30,000/- is awarded on account of loss of estate and funeral expenses. It comes to Rs.3,20,000/-. The rate of interest awarded by the Tribunal is scaled down to 6% p.a.

7. In view of the above, the appeal succeeds in terms of following order.

ORDER

(i) The appeal is partly allowed.

(ii) The amount of compensation awarded by the Tribunal is enhanced to Rs.3,20,000/-, to be paid with interest @ 6% p.a. from the date of petition to the date of payment/deposit of the amount.

(iii) The amount of compensation already deposited by the respondent – Insurance Company be given set off.

[R. G. AVACHAT, J.]

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