

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

FIRST APPEAL NO.2738 OF 2019

The Oriental Insurance Company Ltd.
Shivaji Cross Road, Dr. Chatuphale Road,
Shrirampur, Tq. Shrirampur,
District Ahmednagar, through its
Divisional Manager, Divisional Office,
Adalat Road, Aurangabad

... APPELLANT

VERSUS

1. Sau. Suman Ramesh Jadhav,
Age 45 years, Occu. Household
2. Ramesh Nivrutti Jadhav,
Age 50 years, Occu. Agriculture,

Both R/o Paritwadi, Tq. Karjat,
District Ahmednagar
3. Ajaykumar Ramanlal Doshi,
Age major, Occu. Business,
R/o Rashin, Tq. Karjat,
District Ahmednagar

... RESPONDENTS

.....
Shri Manoj Shinde, Advocate holding for
Shri M.K. Goyanka, Advocate for appellant
Shri M.R. Sonawane, Advocate for respondents No.1 and 2
.....

CORAM : R. G. AVACHAT, J.

DATE : 12th OCTOBER, 2021

J U D G M E N T :

This is Insurance Company's appeal, taking

exception to the quantum of compensation awarded on account of death in a vehicular accident. Under the impugned award, a sum of Rs.10,12,000/- along with interest @ 7% p.a. has been awarded as compensation to the parents of the deceased – Shivaji.

2. It was the case of the claimants that, though Shivaji was taking education, he would do agriculture as well. He was also doing milk business. He used to supply milk to local diary. As such, the deceased used to contribute substantially for the maintenance of his parents – the claimants. The deceased died in the accident at his age of 18 years. He was the only child of his parents.

3. The Tribunal found that, there was no cogent evidence to show that the deceased would do agriculture and milk business. The accident took place while the deceased was returning soon after he appeared for 12th Standard examination. The Tribunal, however, considered his notional income at Rs.6000/-, added 50% thereof towards future prospects and applied the multiplier of 18 to work out loss of annual dependency. 50% was deducted towards personal and living expenses.

4. Learned counsel for the Insurance Company would submit that, the deceased was not gainfully employed. He was a student of 12th Standard. The Tribunal itself found the deceased to have been moderate in academics. According to learned counsel, the Tribunal, therefore, ought to have considered Rs.3000/- per month as notional income of the deceased for grant of a just compensation. He, therefore, urged for scaling down the amount of compensation.

5. Learned counsel for the claimants would, on the other hand, submit that, the deceased had a bright future. He was the only son of his parents. The deceased would do agriculture and milk vending as well. The learned counsel supported the impugned award.

6. The evidence on record indicates that, the deceased was on his way on a motorbike after having appeared for 12th Standard examination. The truck knocked him down from behind. There is no evidence to indicate the deceased was in fact doing agriculture and milk vending as well. The claimants are the parents of the deceased. They have their agricultural land. The deceased was said to be

moderate in academics. This Court, therefore, proposes to work out the amount of compensation in following terms.

7. In the facts and circumstances of the case, this Court considers the notional income of the deceased as Rs.4600/-. $4600 \times 12 = \text{Rs.}55,200/-$. By adding 40% towards future prospects, the annual income of the deceased comes to Rs.77,280/-. 50% thereof is deducted towards personal and living expenses of the deceased. As such, the annual dependency of the claimants comes to Rs.38,640/-. Applying the multiplier of 18, the amount of compensation comes to Rs.6,95,520/-. Rs.40,000/- for each of the claimants is awarded towards loss of love and affection. It comes to Rs.80,000/-. Rs.30,000/- is awarded towards loss of estate and funeral expenses. As such, the total amount of compensation comes to Rs.8,05,520/-.

8. In the result, the appeal partly succeeds. The amount of compensation awarded by the Tribunal is scaled down from Rs.10,12,000/- to Rs.8,05,520/-. The rate of interest awarded by the Tribunal to stand unaltered. The amount of compensation be paid to the claimants equally.

9. The amount in deposit with this Court be paid to the claimants immediately along with interest accrued thereon. The balance amount, if any, be paid back to the appellant Insurance Company along with interest accrued thereon.

(R. G. AVACHAT)
JUDGE

fmp/-