

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

**FIRST APPEAL NO.962 OF 2007**

1. Asha Begum w/o late Khalil Khan  
Age 39 years, Occu. Household,  
R/o Harsool, Tq. and District  
Aurangabad
2. Habib Khan s/o late Khalil Khan  
Age 21 years, Occu. Nil,  
R/o Harsool, Tq. and District  
Aurangabad
3. Hasham Khan s/o late Khalil Khan,  
Age 19 years, occu. Nil,  
R/o Harsool, Tq. and District  
Aurangabad

**... APPELLANTS**  
**(Orig. Claimant Nos.1 to 3)**

**VERSUS**

1. The United India Insurance Co. Ltd.,  
through its Branch Manager,  
Aurangabad
2. Shaikh Saleem s/o Sk. Moosa,  
Age 30 years, Occu. Truck Owner,  
R/o At Post : Patna, Ta. Malegaon,  
District Nasik
3. Mohd. Imran s/o Mohd. Saleem,  
Age 31 years, Occu. Driver,  
R/o 116, Qureshi Mohalla,  
Ward No.66, Malegaon,  
Dist. Nasik

**... RESPONDENTS**  
**(Orig. Respondents No.1 to 3)**

.....  
Mr. S.U. Shaikh, Advocate holding for  
Mr. Y.M. Khan, Advocate for appellants  
Mr. Jeevan Patil, Advocate holding for  
Mr. A.G. Kanade, Advocate for respondent No.1.  
.....

**CORAM : R. G. AVACHAT, J.**

**DATE : 21st OCTOBER, 2021**

**ORAL JUDGMENT :**

This is an appeal for enhancement of amount of compensation awarded on account of death in a vehicular accident. The claimants- appellants are the widow and children of the deceased. The deceased was serving as a Peon with Animal Husbandry Department of the State of Maharashtra. The Tribunal granted only a sum of Rs.1,60,000/- inclusive of No Fault Liability claim as compensation. This Court finds it to be grossly inadequate.

2. Learned counsel for the respondent Insurance Company tries to justify the impugned award. According to him, the age of the deceased has not been duly proved. The deceased was 50 years of age and, therefore, multiplier of 11 should be applied. He also urged for non-grant of interest on any of the amount that may be enhanced by this Court.

3. It appears that, the deceased was of the age of 50 years. The Apex Court judgments in case of **National Insurance Company Limited Vs. Pranay Sethi and others** [ (2017) 16 SCC 680 ] and **MAGMA General Insurance**

**Company Limited Vs. Nanu Ram Alias Chuhru Ram & ors.**  
[ (2018) 18 SCC 130 ] were not in the field when the impugned award was passed. The amount of compensation now, therefore, needs to be worked out in terms of the directions in these two judgments. The applicants are, therefore, awarded the compensation as under:-

4. The gross salary of the deceased as shown in the Salary Certificate is Rs.3819/-. Professional tax of Rs.120/- needs to be deducted therefrom. As such,  $3699 \times 12 =$  Rs.44,388/-. Since the deceased was 50 years of age, 30% of his salary is added towards future prospects. As such, the annual income of the deceased comes to Rs.57,704/-. Since the claimants are three in number, one third amount therefrom i.e. Rs.19,235/- is deducted towards the personal and living expenses of the deceased. Thus, the annual loss of dependency comes to Rs.38,469/-. Applying the multiplier of 11, the amount of compensation comes to Rs.4,23,159/-.

5. On account of loss of consortium and love and affection, each of the appellants/ claimants are awarded a sum of Rs.40,000/- ( $40,000 \times 3 = 1,20,000$ ). Moreover, a sum of Rs.30,000/- is awarded towards loss of estate and funeral expenses. However, no interest would be awarded on

this amount for the period from filing of the petition to the date of this order.

6. As such, the appeal succeeds. The amount of compensation awarded by the Tribunal is enhanced from Rs.1,60,000/- to Rs.5,73,159/-.

The amount of Rs.4,23,159/- to carry interest @ 6% p.a. from the date of filing of the claim petition to the date of payment.

If the amount of compensation of Rs.1,50,000/- granted under the conventional heads is not paid within a period of two months from the date of this order, it shall carry interest @ 6% p.a. from 2/12/2021 to the date of payment.

The amount paid/ deposited by the respondent Insurance Company be given due set off.

**( R. G. AVACHAT )  
JUDGE**

fmp/-