IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.261 OF 2013

1. Savita w/o. Manik Chavan
2. Manik s/o. Sakru Chavan ..Appellants

Vs.

1. Syed Ejaj s/o. Syed Munaf
2. The Oriental Insurance Company Ltd. ..Respondents

Mr.P.S.Agrawal, Advocate for appellants
Mr.P.C.Mayure, Advocate for respondent no.1
Mr.A.S.Deshpande, Advocate for respondent no.2

CORAM : R.G. AVACHAT, J.
DATE : NOVEMBER 22, 2021

ORDER :-

This appeal has been preferred for enhancement of compensation granted by the Motor Accident Claims Tribunal, Parbhani ("the Tribunal", for short) on account of death involved in a vehicular accident.

2. The appellants herein are parents of deceased Gokuldas. Indisputably, Gokuldas died in an accident involving motor vehicles. His parents (appellants herein), therefore, preferred the petition for compensation. The Tribunal granted a sum of Rs.2,62,000/- with interest at the rate of 6% per annum.

3. Mr.P.S.Agrawal, learned counsel for the appellants, would submit that a very meagre amount has been awarded as compensation. Nothing has been granted towards future prospects. A very small amount has been given towards loss of consortium and love and affection. According to him, the amount of compensation may be worked out in terms of the judgment of the Apex Court in the cases of (i) **National Insurance Company Ltd. Vs. Pranay Sethi and ors., (2017)16 SCC 680**; and (ii) **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and ors., (2018)18 SCC 130**.

4. Mr.A.S.Deshpande, learned counsel for respondent no.2 - insurance company, on the other hand, would submit that there was no concrete evidence about the income of the deceased. Assumption of Rs.3,000/- per month as notional income was very much on higher side. According to learned counsel, the amount of compensation awarded by the Tribunal is not required to be enhanced.

5. When the impugned award was passed, the judgments in the cases of **Pranay** (supra) and **Magma General Insurance**

(supra) were not in the field. Perusal of the impugned judgment would indicate that nothing has been granted towards future prospects. A small amount has been granted towards funeral expenses and loss of estate. The amount of compensation, therefore, needs to be reworked out.

6. The deceased was 18 years of age when he breathed last. Forty percent of his assumed established income of Rs.3,000/-, would be added thereto on account of future prospects. Thus, the assumed monthly income would be Rs.4,200/-. Annual income of the deceased would be Rs.50,400/-. Since the deceased died bachelor, 50% thereof is subtracted therefrom on account of his personal and living expenses. Thus, the loss of annual dependency would to come Rs.25,200/-. Since the deceased was 18 years of age, multiplier of 18 in view of Apex Court's judgment in the case of **Sarla Verma (Smt.) and ors. Vs. Delhi Transport Corporation and anr., (2009)6 SCC 121**, is applied. This way, the amount of compensation on account of loss of dependency would come to Rs.4,53,600/-.

7. The appellants need to be awarded Rs.40,000/- each towards loss of love and affection and Rs.30,000/- towards loss of estate and funeral expenses. The appellants, however, shall not be entitled for interest *pendente lite* on this amount.

8. In the result, the appeal partly succeeds in terms of the following order:-

(i) The appeal is allowed.

(ii) The amount of compensation granted by the Tribunal is enhanced from Rs.2,62,000/- to Rs.5,63,600/-.

(iii) The sum of Rs.1,10,000/- granted towards loss of love and affection, loss of estate and funeral expenses, shall not carry interest *pendente lite* i.e. from the date of claim petition to the date of this order.

(iv) Rest of the terms of the impugned award to stand unaltered.

(v) The amount in deposit, if any, with this Court or the Tribunal, be paid to the claimants with interest accrued thereon.

[**R.G. AVACHAT, J.**]

KBP