IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.283 OF 2011

Babarao s/o Apparao Ambhure & anr. … **APPELLANTS**

VERSUS

Laxman s/o Raghunath Choudhary & anr.… **RESPONDENTS**

....
Mr. S.B. Ghatol Patil, Advocate for appellants
Mr. S.S. Rathi, Advocate for respondent No.2.
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CORAM : R. G. AVACHAT, J.
DATE : 20th DECEMBER, 2021

PER COURT :

Heard. This is an appeal for enhancement of compensation granted by the Motor Accident Claims Tribunal, Parbhani in Motor Accident Claim Petition No.225/2009. It was a death claim filed by the parents of the deceased, about 18 years of age. The Tribunal has granted a sum of Rs.1,82,000/- towards compensation.

2. Learned counsel for the appellants would submit that, a very meagre amount has been awarded. It was

accident of 2009. The deceased was a grown-up child. Rs.3000/- should have been considered as notional income. He also urged for grant of compensation on account of future prospects and under other conventional heads as well. As such, he urged for substantial enhancement in the amount of compensation awarded by the Tribunal.

3. Learned counsel for the respondent Insurance Company would, on the other hand, submit that, the deceased was a College boy and as such, was a non-earning member. He died bachelor. The Tribunal has, therefore, rightly considered his notional income at Rs.1500/- per month and awarded just and reasonable compensation. According to the learned counsel, no interference with the impugned judgment and award is thus warranted.

4. Considered the submissions advanced. Perused the impugned judgment and award and the evidence relied on. The deceased was about to complete 18 years of age. As such, he was a grown-up child. The incident dates back to 2009. Minimum wage of rate those days might not have been less than Rs.3000/- per months. This Court is, therefore, inclined to consider the notional income of the deceased at

Rs.3000/- per month. 40% thereof is added towards future prospects. Thus, the monthly income of the deceased would come to Rs.4200/-. The annual income of the deceased thus comes to Rs.50,400/-. Since the deceased was bachelor, 50% of his established income is deducted towards personal and living expenses. As such, the total annual dependency comes to Rs.25,200/-. Considering the age of the deceased, multiplier of 18 is applied. Applying the multiplier, the total amount of compensation on account of loss of dependency comes to Rs.4,53,600/-. Moreover, the appellants – claimants are awarded Rs.40,000/- towards loss of love and affection. Besides Rs.30,000/- is awarded towards funeral expenses and loss of estate. Thus, the total amount of compensation comes to Rs.4,53,600/- + Rs.80,000/- + Rs.30,000/- = Rs.5,63,600/-. However, the amount of Rs.1,10,000/- shall not carry interest pendent lite i.e. from the date of petition till the date of this order.

5. In view of the above, the appeal partly succeeds. Hence, the following order :

<u>O R D E R</u>

(i) The appeal is partly allowed.

(ii) The amount of compensation of Rs.1,82,000/- is enhanced to Rs.5,63,600/-. However, the amount of Rs.1,10,000/- shall not carry interest pendent lite i.e. from the date of petition till the date of this order.

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

(R. G. AVACHAT)
JUDGE

fmp/-