

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

FIRST APPEAL NO.926 OF 2007

1. Gajra Bee w/o. Shaikh Kadir
 2. Shaikh Jamil s/o. Sk. Kadir
 3. Shabana d/o. Shaikh Kadir
 4. Julekha d/o. Shaikh Kadir
 5. Sk. Anis s/o. Shaikh Kadir
 6. Shaikh Altaf s/o. Sk. Kadir
 7. Shaikh Hussain s/o. Sk. Daud
- ..Appellants

Vs.

1. M/s. Prakash General Agencies
 2. Sudam s/o. Ramkrishna Nemade
 3. United India Insurance Co. Ltd.
- ..Respondents

Mr.V.D.Patnoorkar, Advocate for appellants
Mr.S.V.Kullarni, Advocate for respondent no.3

**CORAM : R.G. AVACHAT, J.
DATE : DECEMBER 08, 2021**

ORDER :-

This is an appeal for enhancement of compensation granted by the Motor Accident Claims Tribunal, Aurangabad, in Motor Accident Claim Petition No.11 of 1997, on account of death in vehicular accident. The Tribunal has awarded a sum of Rs.2,02,000/- (inclusive of no fault liability) with interest at the rate of 12% per annum.

2. Heard learned counsel appearing for the parties.

3. Learned counsel for the appellants submits that the deceased was in milk business. His income was more than Rs.3,000/- per month. The Tribunal has, however, wrongly considered it at Rs.1,500/- per month only. Learned counsel also urged for grant of compensation in terms of the Apex Court's judgments in the cases of (ii) **National Insurance Company Ltd. Vs. Pranay Sethi and ors., (2017)16 SCC 680**; and (iii) **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and ors., (2018)18 SCC 130**.

4. Learned counsel for the respondent-insurance company would on the other hand submit that a just and reasonable compensation has been awarded. Interest has been awarded at the rate of 12% per annum. The same is exorbitant. He, therefore, urged for dismissal of the appeal.

5. It was a death claim. The deceased was 40 years plus. The claimants are seven in number. The accident dates back to 1996. The Tribunal, therefore, appears to have rightly considered the income of the deceased notionally at Rs.1,500/- per month. However, twenty five percent of the notional income needs to be

added on account of future prospects. This way, the monthly income of the deceased would come to Rs.1,875/-, while the annual income would be Rs.22,500/-. Since the claimants are seven in number, one fifth thereof is deducted towards personal and living expenses of the deceased. As such, the loss of annual dependency would come to Rs.18,000/-. Considering the age of deceased as 42 years, multiplier of 14 is applied. This way, the amount of compensation on account of loss of dependency would come to Rs.2,52,000/-.

6. Moreover, each of the appellants is awarded a sum of Rs.40,000/- towards loss of love and affection besides Rs.30,000/- towards loss of estate and funeral expenses, totaling Rs.3,10,000/- (Rs.2,80,000 + Rs.30,000). No interest *pendente lite* is awarded on this amount.

7. Hence, the appeal is partly allowed in the following terms:-

- (i) The amount of compensation is enhanced from Rs.2,02,000/- to Rs.5,62,000/-.
- (ii) The rate of interest is scaled down to 5% per annum.

- (iii) No interest *pendente lite* i.e. from the date of the claim petition to the date of this order, is granted on the amount of Rs.3,10,000/-.

[R.G. AVACHAT, J.]

KBP