IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2356 OF 2010

1. Limbaji s/o. Kashiba Kamble,
Age:62 years, Occ. Agri.,
r/o. Nimtoak, Tq. Kalamnuri,
Dist. Hingoli

2. Kondabai w/o. Limbaji Kamble,
Age : 57 years, Occ. Household,
r/o. As above ..Appellants

Vs.

1. Shaikh Naushad s/o. Shaikh Munaf,
Age : 40 years, Occ. Owner of Jeep,
Bearing No.MH 26, C 1230,
r/o. Vasant Nagar, Pusad,
Tq. Pusad, Dist. Yeaotmal

2. The Oriental Insurance Company Ltd.,
Through its Divisional Manager at
Parbhani ..Respondents

Mr.P.S.Agrawal, Advocate for appellant
Mr.V.N.Upadhye, Advocate for respondent no.2

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

ORDER :-

This is an appeal for enhancement of compensation granted by Motor Accident Claims Tribunal ("Tribunal", for short), Hingoli, in Motor Accident Claim Petition No.84 of 2006.

2. The appellants herein are parents of the deceased who died in an accident involving motor vehicle bearing registration no.MH-26-C-1230. The Tribunal considered notional income of the deceased at Rs.1,500/- per month. It deducted 1/3rd amount therefrom towards personal and living expenses of the deceased, applied multiplier of 8 and considering the age of the parents (appellants), awarded compensation of Rs.One Lakh along with interest at the rate of 6% per month.

3. Heard learned counsel appearing for the parties.

4. Mr.Upadhye, learned counsel for the respondent-insurance company, would support the impugned judgment and award. According to him, there was no evidence about income of the deceased. The Tribunal has, therefore, rightly considered notional income of the deceased at Rs.1,500/- per month. The deceased died bachelor. Therefore, half of the income of the deceased should have been deducted towards his living and personal expenses. The claim dates back to year 2006, when there was no provision for grant of compensation on account of future prospects and other conventional heads. Learned

counsel would further submit that if the amount of compensation is enhanced, interest may not, thereon, be awarded for the period of pendency of this appeal.

5. Mr.Agrawal, learned counsel for the appellants-claimants, would, on the other hand, submit that the Tribunal erred in taking notional income of the deceased at Rs.1,500/- per month. Multiplier ought to have been applied considering the age of the deceased. Nothing has been granted towards future prospects. He, therefore, urged in allowing the appeal.

6. The accident dates back to April, 2006. In those days, minimum rate of wages must not have been less than Rs.70/- per day. The Tribunal, therefore, ought to have considered notional income of the deceased at Rs.2,100/- per month. The deceased died bachelor. The deceased was 25 years of age when he breathed his last.

7. In view of the Constitution Bench judgment of the Apex Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi and ors., (2017)16 SCC 680,** 40% amount of the

established income of the deceased would be added to his monthly income for grant of compensation on account of future prospects. This way, the monthly income of the deceased would come to Rs.2,940/- (Rs.2,100 + 840). Since the deceased died bachelor, one half thereof will have to be deducted towards his personal and living expenses.

8. The Multiplier is to be applied considering age of the deceased and not of the claimants therefor. The Tribunal has erred in considering age of the claimants. In view of the Apex Court judgment in the case of **Sarla Verma (Smt.) and ors. Vs. Delhi Transport Corporation and anr., (2009)6 SCC 121** and considering age of the deceased, multiplier of 18 needs to be applied. Further, in view of the Apex Court judgment in the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and ors., (2018)18 SCC 130,** both the appellants need to be awarded a sum at Rs.80,000/- towards loss of love and affection besides Rs.30,000/- towards loss of estate and funeral expenses.

9. In view of the above, the amount of compensation payable to the claimants, needs to be worked out as under:-

Particulars		Figures in Rupees
Income of deceased per annum (Rs.2,100/- per month x 12 months)		25,200
Addition of 40% towards future prospects (deceased being below 25 years of age)	+ (plus)	10,080
	:-	35,280
Since the deceased died bachelor, 1/2 of the amount is deducted in view of **Pranay Sethi's case** (supra), towards personal and living expenses of the deceased.	- (minus)	17,640
	:-	17,640
Applying multiplier of 18, amount of compensation on account of loss of dependency (Rs.25,200 x 18)	:-	3,17,520
Addition of amount towards loss of consortium in view of **Pranay Sethi's case** (supra) and **Magma General Insurance's case** (supra) Rs.40,000/- x 2 (two claimants),	+ (plus)	80,000
Addition of funeral expenses and loss of estate	+ (plus)	30,000
Amount of compensation	Rs.	4,27,520/-

10. Thus, the total amount of compensation comes to Rs.4,27,520/-. It has been fourteen years since filing of the

claim petition. The rate of interest on the amount of compensation, therefore, shall be restricted to 6% per annum.

11. In view of the above, the appeal partly succeeds in terms of the following order :-

(i) The impugned judgment and award dated 06.07.2009 is modified. Respondent nos.1 and 2 do pay jointly and severally the petitioners (appellants herein) a sum of Rs.4,27,520/- (Rupees Four Lakhs Twenty Seven Thousand and Five Hundred Twenty) with interest at the rate of 6% per annum.

(ii) The amount of compensation paid to the claimants or deposited with this Court be given due set off.

(iii) The appeal stands disposed of accordingly.

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

KBP