

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

FIRST APPEAL NO.1382 OF 2017

1. Suman w/o. Dashrath Varpe,
2. Jayashri d/o. Dashrath Varpe,
3. Rupali d/o. Dashrath Varpe,
4. Gopinath s/o. Pandharinath Varpe ..Appellants

Vs.

1. The Branch Manager,
Bajaj Allianz General Insurance Co. Ltd.
2. Vikram s/o. Lahu Gavhane ..Respondents

Mr.R.L.Kute, Advocate for appellants
Mr.S.G.Chapalgaonkar, Advocate for respondent no.1

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

JUDGMENT :-

This is an appeal for enhancement of compensation granted by the Motor Accident Claims Tribunal, Sangamner, ("the Tribunal", for short) on account of death in a vehicular accident.

2. The appellants herein are original petitioners in Motor Accident Claim Petition No.172 of 2006. They are mother, two

sisters and grandfather of deceased Bhim @ Mahesh, who died in a vehicular accident on 11.08.2006. The Tribunal, considering the notional income of the deceased at Rs.15,000/- per annum, has awarded compensation of Rs.1,35,000/- on account of loss of dependency. An amount of Rs.2,50,000/- has been awarded by the Tribunal towards medical expenditure, while a sum of Rs.25,000/- has been awarded towards funeral expenses and loss of love and affection.

3. Mr.R.L.Kute, learned counsel for the appellants, would submit that the deceased died young. He had a bright future career. He would assist his father in agriculture and milk business. Nothing has been awarded towards future prospects. The amount of compensation is a meagre one. Learned counsel would, therefore, urge for allowing the appeal.

4. Mr.S.G.Chapalgaonkar, learned counsel for respondent no.1-insurance company, would, on the other hand, submit that it was an accident wherein both father and son have passed away. These appellants have also preferred a

claim petition on account of death of the father of deceased. The appellants herein are sisters, grandfather besides the mother. None of them could have been said to be depending on the deceased. Learned counsel urged for dismissal of the appeal.

5. Both Bhim @ Mahesh and his father - Dashrath died in the vehicular accident on 11.08.2006. The deceased died bachelor. There is evidence to indicate that he was a second year student of B.Com. There is also evidence to suggest that he would attend the college all day. As such, the deceased could have assisted his father in the agricultural pursuits on holidays only. The Tribunal considered his notional income at Rs.15,000/- per annum. The same is on very lower side.

6. The deceased was 21 years of age when he breathed his last. His income has to be assumed at Rs.3,000/- per month. Thus, the annual income of the deceased would be Rs.36,000/-. Forty percent thereof would be added towards future prospects. This way, the amount would come to

Rs.50,400/- (Rs.36,000 + 40%). Since the deceased died bachelor, one half thereof would be required to be subtracted towards his personal and living expenses. As such, the loss of dependency would come to Rs.25,200/- (Rs.50,400 ÷ 2). Applying multiplier of 18, the amount of compensation on account of loss of dependency would come to Rs.4,53,600/- (Rs.25,200 x 18).

7. There is evidence to indicate that a sum of Rs.2,72,000/- was spent for medical expenditure. The Tribunal still awarded Rs.2,50,000/- only. In view of this Court, the appellants are entitled to Rs.2,72,000/- towards medical reimbursement.

8. Moreover, the mother and both the sisters need to be awarded a sum of Rs.40,000/- each towards loss of love and affection and consortium besides a sum of Rs.30,000/- on account of funeral expenditure, totalling Rs.1,50,000/-. The appellants, however, shall not be entitled for interest *pendente lite* on this amount. This way, the total amount of compensation comes to Rs.8,75,600/-.

9. In the result, the appeal 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.4,30,000/- to Rs.8,75,600/-.
- (iii) The sum of Rs.1,50,000/- granted towards loss of love and affection, consortium 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 shall 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.]