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

FIRST APPEAL NO. 616 OF 2005

The United India Insurance Company Ltd.,
Through its Divisional Office, Divisional
Manager, United India Insurance Company,
Aurangabad ... **Appellant**

Versus

1. Sangeeta w/o Bapu Tate,
Age 24 yrs, Occu. Household,
R/o. Chousala, Tal. & Dist. Beed

2. Mangal d/o Bapu Tate
Age 2 yr. Occ. Nil U/g. Of
her real mother i.e. claimant No.1

3. Malanbai w/o. Rajaram Tate
Age 56 yrs. Occu. Nil,
R/o as above

4. Yogeh s/o Rajaram Tate
Age 19 yrs, Occu. Education
R/o. As above.

5. Samji s/o Jiva Boricha
Age major, occu. Business,
R/o. Sampede, Tal. Anjar,
Dist. Kutch, State Gujrat ... **Respondents**

(Resp. 1 to 4 are org. claimants
& resp.No. 5 is org. respdt)

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Mr. S. V. Kulkarni, Advocate for appellant
Mr. S. K. Naikwade, Advocate for res[pondent Nos.1 and 3

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CORAM : R. G. AVACHAT, J.

DATED : 22nd OCTOBER, 2021

PER COURT :-

. This is insurance company's appeal, taking exception to the judgment and award dated 13.01.2005, passed by the Motor Accident Claims Tribunal, Beed, granting compensation of Rs.4,00,000/- on account of death in a vehicular accident.

2. It was an accident between two vehicles, truck bearing No.GJ-12-U-7071 and Tempo bearing registration No.MH-12-AQ-3127. It was said to be head on collision. As a result thereof, the driver of the tempo passed away. His legal representatives, therefore, filed the petition for compensation under Section 163-A of the Motor Vehicles Act. The Tribunal considered the notional income of the deceased at Rs.3,000/- per month. Deducted 1/3rd thereof towards personal and living expenses of the deceased. Thus, the Tribunal found the annual income of the deceased to be Rs.24,000/- for grant of compensation. As the deceased was little over 24 years of age, applied the multiplier of 18 and found the claimants to be entitled for compensation of Rs.4,32,000/-. Since the claim was restricted to

Rs.4,00,000/-, the Tribunal did not grant more than that. Interest @ 9% p.a. was awarded for the period from the date of petition to the date of payment of the amount.

3. The learned Advocate for the appellant – Insurance Company would submit that the owner and insurer of the tempo involved in the accident were not made parties to the claim petition. There was no concrete evidence regarding income of the deceased. As such, grant of compensation is on higher side. The deceased himself was contributory negligent. He, therefore, urged for allowing the appeal.

4. Learned Advocate for the respondent – claimant would, on the other hand, reiterate the reasons given by the Tribunal for grant of compensation in support of its award.

5. Admittedly, it was an accident between two vehicles, truck and tempo. The tempo driver passed away. The petition for compensation was moved under Section 163-A of the Motor Vehicles Act. Since the deceased was admittedly a professional driver, the Tribunal has rightly considered his salary at Rs.3,000/- per month. The Tribunal awarded the compensation strictly in terms of Second

Schedule of the Motor Vehicles Act. There is no reason for this Court to interfere with the impugned judgment and award.

6. In the result, the appeal fails. The same is dismissed.

7. It is informed that respondent Nos. 3 and 4 have passed away pending the appeal. The amount in deposit, therefore, be paid to the rest of the claimants with interest accrued thereon, immediately, since they are said to be the legal representatives of deceased claimants.

[R. G. AVACHAT, J.]

SMS