

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

FIRST APPEAL NO. 3094 OF 2015

Abeda Mehmood Tamboli and Others

..APPELLANTS

VERSUS

Branch Manager,
The New India Assurance Co. Ltd.,
Latur and Another

..RESPONDENTS

....

Mr. Fayaz K. Patel, Advocate h/f Mr. R.P. Adgaonkar, Advocate for appellants
Mr. M.M. Ambhore, Advocate for respondent no.1

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**CORAM : R.G. AVACHAT, J.
DATED : 04th DECEMBER, 2021**

PER COURT :

1. Heard. The appeal has been preferred by the original claimants for enhancement of compensation on account of death in vehicular accident.

2. The appellants/claimants are five in number viz. widow and four children, one of whom is a major when the accident took place. The Tribunal considered the income of the deceased notionally at Rs.3,000/- per month and granted compensation. When the impugned award was passed, the Apex Court's judgments in **National Insurance Company Vs. Pranay Sethi** reported in (2017) 16 SCC 680 and **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and Others** reported in (2018) 18 SCC 130 were not in the

field. The appeal being in continuation of the original petition for compensation, the same would necessarily be governed by the directions of Apex Court in the aforesaid judgments.

3. Learned counsel for the respondent – insurance company would submit that the accident took place way back in 2008, when the rate of daily wages was not more than Rs.100/-. According to him, the Tribunal has awarded a just and reasonable compensation. He, therefore, urged for dismissal of the appeal.

4. For grant of just compensation, this Court proposes to fix the notional income of the deceased at Rs.3,500/- per month. As such, annual income of the deceased would be Rs.42,000/- (Rs.3,500 x 12). Since the deceased was forty plus, 25% thereof needs to be granted on account of future prospect. As such, the amount would come to Rs.52,500/- (Rs.42,000 + 25%). As the claimants were five in number, 1/4th of the notional income of the deceased is subtracted on account of personal and living expenses. This way the loss of dependency comes to Rs. 39,375/- (Rs.52,500 – Rs.13,125). Assuming the age of the deceased in the age group of 41 years to 45 years, multiplier of 14 is applied, which would come to Rs.5,51,250/- towards loss of dependency. Moreover, in terms of aforesaid judgments of the Apex Court, each of the claimants would be awarded a sum of Rs.40,000/- on account of loss of consortium and loss of love and affection etc. besides a sum

of Rs.30,000/- on account of loss of estate and funeral expenses, which comes to Rs.2,30,000/- in total.

5. In the result, the appeal succeeds in terms of the following order :-

- (i) The appeal is allowed.
- (ii) The amount of compensation is enhanced from Rs.3,75,000/- to Rs.7,81,250/-.
- (iii) No pendente lite interest is awarded on the sum of Rs.2,30,000/-.
- iv) Rest of the terms of the impugned award to stand unaltered.
- (v) Fifty percent of the amount be paid to the widow of the deceased and rest of the amount be paid to the children equally.

(R.G. AVACHAT, J.)

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