

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

FIRST APPEAL NO.150 OF 2002

1. Haribhau Panduji Bangar,
Age ____ years, Occ. Agri.,
r/o. Hingoli, Tq. and Dist. Hingoli
died through L.Rs.
2. Muktabai w/o. Haribhau Bangar,
Age : 47 years, Occ. Household,
r/o. As above
3. Subhash Haribhau Bangar,
Age : 19 years, Occ. Student,
r/o. As above
4. Anil Haribhau Bangar,
Age : 18 years,
Occ. and r/o. As above ..Appellants

Vs.

1. Surendra Bilu Yadav,
Age : 25 years, Occ. Driver,
r/o. Panchmahal, Hajaribag
(Bihar), Now c/o. S.C.Sharma
Tad Pangri, Tq. and Dist. Parbhani
2. Surendra Chunilal Sharma,
Age : 35 years, Occ. Business,
r/o. Tad Pangri, Tq. and Dist. Parbhani
3. The Oriental Insurance Co. Ltd.,
Daulat Building, Shivaji Road,
Parbhani .. Respondents

Mr.B.S.Kudale, Advocate for appellants
Mr.A.S.Deshmukh, Advocate for respondent no.2
Mr.A.S.Deshpande and Mr.A.A.Puranik, Advocate for respondent no.3

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CORAM : R.G. AVACHAT, J.
DATE : OCTOBER 04, 2021

JUDGMENT :-

This appeal has been filed for enhancement of compensation granted by the Motor Accident Claims Tribunal, Hingoli ("the Tribunal", for short) vide its judgment and award dated 27.02.2001 passed in Motor Accident Claim Petition No.38 of 2000.

2. The appellants herein are legal representatives of the deceased. Vide the impugned judgment and award, the Tribunal awarded compensation of Rs.1,49,400/- with interest at the rate of 12% per annum on account of death in a vehicular accident. The appellants herein are legal representatives of the deceased – Pratap who died as a result of the injuries suffered in the vehicular accident.

3. The facts giving to the appeal are as under:-

Deceased – Pratap was serving as a Supervisor with one Chunnilal Sharma. On 15.08.1996, the deceased was on his duty. The work of percolation tank was underway. Excavated soil was being shifted to the site in a truck bearing registration no.MH-22-663. The truck driver took the truck in reverse direction unnoticing presence of the deceased – Pratap. The truck knocked the deceased down and ran over him.

4. The parents and two brothers of the deceased, therefore, preferred the claim petition for compensation. It was their case that the deceased would earn Rs.3,000/- per month as salary plus allowances. He would also supervise agricultural operations of his own land and earn Rs.3,500/- per month therefrom. On appreciation of evidence in the matter, the Tribunal considered the monthly salary of the deceased at Rs.1,050/- per month (Rs.35 per day). The deceased's annual income was worked out at Rs.12,600/-. One third thereof was deducted towards his personal and living expenses and by

applying multiplier of 16, the Tribunal awarded Rs.1,34,400/- towards the loss of dependency besides Rs.10,000/- on account of loss of love and affection and Rs.5,000/- for funeral expenses.

5. Heard learned counsel appearing for the parties.

6. Learned counsel for the appellant-claimants would submit that the accident dates back to year 1996. He placed on record a Government Resolution dated 06.12.1996 issued under the Minimum Wages Act, 1948, whereunder, the rate of minimum wages of unskilled labour was Rs,1,300/-, while for skilled labour, it was Rs.1,500/-. He would submit that the deceased was Supervisor, meaning thereby, he was a skilled labour. Learned counsel would further submits that the claimants need to be awarded compensation in terms 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.**

7. Learned counsel for the respondents-claimants would, on the other hand, submit that two of the claimants are

grown up brothers of the deceased. The father of the deceased was self employed. The family has agricultural land. According to learned counsel, the amount of compensation awarded by the Tribunal was just and reasonable in the facts and circumstances of the case.

8. Pending the appeal, the father of the deceased passed away. The award passed in his favour was part of his estate. His legal representative on record has every right to defend the same. The deceased died while he was on duty as Supervisor. A truck engaged in shifting of the excavated earth ran over the deceased. The Tribunal considered his notional income at Rs.1,050/- per month. The accident dates back to August, 1996. As per the Government notification dated 06.12.1996, the rate of minimum wages in respect of cities and towns falling in Zone was as under:-

Class of employees		Rate
Skilled	-	Rs.1500
Semi-skilled	-	Rs.1400
Un-skilled	-	Rs.1300

9. The evidence on record indicates that the deceased was serving as Supervisor. His nature of job could be termed as a semiskilled employee. The compensation amount, therefore, is reworked out. For grant of just compensation, his monthly income is considered at Rs.1,400/- per month. Towards future prospects, 40% thereof is added thereto. The amount, as such, would come to Rs.1,960/- (1400 + 40%). Since the claim was filed by the parents and two brothers, 1/3rd thereof needs to be deducted towards personal and living expenses of the deceased. Thus, the monthly loss of dependency comes to Rs.1,307/- and the annual loss of dependency would be Rs.15,685/- (Rs.1307 x 12 months). Applying multiplier of 16, the amount would come to Rs.2,50,944/-. Each of the claimants including the deceased's father is awarded Rs.40,000/- towards loss of love and affection, besides a sum of Rs.30,000/- towards loss of estate and funeral expenses. Thus, the total amount of compensation comes to Rs.4,40,944/- (Rs.2,50,944 + Rs.1,60,000 + Rs.30,000).

10. The Tribunal has awarded interest at an exorbitant rate. The same, therefore, needs to be scaled down to 7% per annum. Moreover, the interest would not be allowed *pendente lite* on the amount of compensation awarded on account of loss of love and affection, funeral expenses and loss of estate i.e. Rs.1,90,000/-.

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

- (i) The appeal is allowed.
- (ii) The impugned award is modified enhancing the compensation from Rs.1,49,400/- to Rs.4,40,944/-. The respondents shall jointly and severally pay the said amount along with interest at the rate of 7% per annum on Rs.2,50,944/- from the date of the claim petition to the date of payment.
- (iii) The respondents shall also pay interest at the rate of 7% per annum on the balance amount of Rs.1,90,000/- from the date of this order to the date of payment/deposit of compensation amount.

- (iv) 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.]

KBP