

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

FIRST APPEAL NO.1912 OF 2009

1. Vijaykumar s/o. Ganpatrao Tambare,
Age:35 years, Occ. service
 2. Mayuri Vijaykumar Tambare,
Age:8 years, Occ. Education
 3. Mangesh s/o. Vijaykumar Tambare,
Age:3 years, Occ. Education,
all r/o. Renapur Naka, Latur
- ..Appellants

Vs.

1. Satish Manik Gite
Age:Major, Occ. Agri.
r/o. Ramwadi, Tq.Renapur,
Dist. Latur
 2. The Manager,
The United India Insurance Co. Ltd.,
Branch Office, Latur
 3. Vishnu N. Kendre,
age:Major, Occ. Business,
r/o. Venkatesh Tupsakhare Colony,
Nashik
- ..Respondents

Mr.R.K.Ashtekar, Advocate for appellants
Mr.N.D.Kendre, AGP for respondent no.1
Mr.S.V.Kulkarni, Advocate for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : DECEMBER 17, 2021**

ORAL JUDGMENT :-

Heard.

2. This is an appeal for enhancement of compensation granted on account of death in a vehicular accident. The claim was preferred by the husband and two minor children of the deceased. The deceased was housewife. The Tribunal considered her income notionally at Rs.15,000/- per annum and granted compensation amounting to Rs.2,50,000/- with interest at the rate of 7.5% per annum. The original claimants are, therefore, in appeal.

3. Learned counsel for the appellants/claimants would submit that although the deceased was a housewife, her services in terms of money ought to have been considered by the Tribunal. The notional income of the deceased not less than Rs.4,000/- per month, ought to have been considered by the Tribunal. According to him, nothing has been awarded towards future prospects. Under the conventional heads, very meagre amount has been granted. He, therefore, urged for enhancement of compensation.

4. Learned counsel for the respondent-insurance company and learned counsel for the respondent-driver would submit that just and reasonable compensation has been awarded by the Tribunal. The accident dates back to year 2007. The Tribunal has, thus, rightly considered income of the deceased notionally at Rs.15,000/-

per annum and granted compensation. They, therefore, urged for dismissal of the appeal.

5. Considered the submissions advanced by learned counsel for the parties. Perused the impugned judgment. The deceased was a homemaker. In the year 2007, the rate of daily wages must not have been less than Rs.100/- per day. Considering the deceased was a homemaker, this Court proposes to consider her income notionally at Rs.2,500/- per month. Thus, her annual income would be Rs.30,000/-. As she was below 31 years of age, 40% thereof is added towards future prospects. This way, the amount would come to Rs.42,000/-. Considering the number of dependents i.e. husband and two minor children, one third of the annual income is subtracted. This way, the annual dependency would come to Rs.28,000/-. Applying multiplier of 17, the amount of loss of dependency would come to Rs.4,76,000/-.

6. Each of the applicants are awarded Rs.40,000/- towards loss of consortium and loss love and affection. They are further awarded Rs.30,000/- towards loss of estate and funeral expenses. However, this amount of Rs.1,50,000/- shall not carry interest *pendente lite*.

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

- (i) The amount of compensation is enhanced from Rs.2,50,000/- to Rs.6,26,000/-.
- (ii) The enhanced amount shall carry interest at the rate of 6% per annum from the date of the claim petition till payment/deposit thereof, out of which, the amount of Rs.1,50,000/- shall not carry interest *pendente lite* (i.e. from the date of claim petition to the date of this order).
- (iii) Rest of the terms of the impugned award to stand unaltered.
- (iv) The appeal stands disposed of accordingly.

[R.G. AVACHAT, J.]

KBP