IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1956 OF 2015

1. Popat s/o. Patilba Patare
2. Smt. Mangal w/o. Popat Patare ..Appellants

Vs.

1. Satish s/o. Kundlik Pawar
2. Anil s/o. Kakasaheb Sonawane
3. ICICI Lombard General Insurance Co. Ltd. ..Respondents

Mr.A.C.Darandale, Advocate for appellants

Mr.Parikshit Mantri, Advocate h/f. Mr.Parag Barde, Advocate for respondent no.1

Mr.A.G.Choudhari, Advocate for respondent no.3

CORAM : R.G. AVACHAT, J.
DATE : DECEMBER 08, 2021

ORDER :-

This is an appeal for enhancement of compensation granted by the Motor Accident Claims Tribunal, Shrirampur, vide judgment and award dated 31.01.2013 in Motor Accident Claim Petition No.256 of 2009 on account of death in vehicular accident.

2. The appellants are parents of deceased, a 17 years Science stream student. The Tribunal considered his income notionally at Rs.3,000/-, applied multiplier considering the age of the parents and granted compensation of Rs.2,95,000/-.

3. Learned counsel for the appellants would submit that the deceased had a bright career. He would submit that the notional income of the deceased should have been considered at least, at Rs.5,000/- per month. According to him, multiplier should have been applied considering the age of the deceased and not of his parents. He would further submit that nothing has been awarded towards future prospects and under conventional heads as well. He, therefore, urged for reworking of the amount of compensation in view of the judgment of the Apex Court in the cases of (i) **National Insurance Company Ltd. Vs. Pranay Sethi and ors., (2017)16 SCC 680**; and (ii) **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and ors., (2018)18 SCC 130**.

4. Learned counsel for the respondent-insurance company would, on the other hand, strongly oppose enhancement of the amount of compensation. He would submit that what has been awarded, is just and reasonable. The deceased was 11th standard student. No one could predict about his future, although he might have scaled the heights. He, therefore, urged for dismissal of the appeal.

5. Considered the submissions. Gone through the impugned award. The record indicates that the deceased had a very good academic performance. He died at the age of 17. In view of this Court, his notional income at Rs.3,000/- considered by the Tribunal, appears to be somewhat on lower side. This Court is, therefore, inclined to consider it at Rs.4,000/- per month. As such, the annual income of the deceased would come to Rs.48,000/-. Forty percent thereof is added towards future prospects. As such, the amount would come to Rs.67,200/- (Rs.48,000 + Rs.19,200/-). Since he died bachelor, 50% thereof is subtracted towards his living expenses. This way, the loss of annual dependency would come to Rs.33,600/-. Considering the age of the deceased, multiplier of 18 is applied. As such, the amount on account of loss of dependency would come to Rs.6,04,800/-.

6. The appellants are also granted a sum of Rs.40,000/- each towards loss of love and affection besides a sum of Rs.30,000/- towards loss of estate and funeral expenses. No interest *pendente lite* is awarded on this amount. As such, the total amount of compensation would come to Rs.7,14,000/- (Rs.6,04,000/- + Rs.1,10,000/-).

7. In view of the above, the appeal is allowed partly in terms of the following order:-

(i) The appeal partly succeeds.

(ii) The amount of compensation is enhanced from Rs.2,95,000/- to Rs.7,14,000/-. The rate of interest is scaled down from 9% per annum to 6% per annum.

(iii) The amount of compensation i.e. Rs.1,10,000/- shall not carry interest *pendente lite* i.e. from the date of the claim petition to the date of this order.

[**R.G. AVACHAT, J.**]

KBP