

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

**FIRST APPEAL NO. 1649 OF 2011**

Nirmalabai Vishnu Bharti and Others

..APPELLANTS

VERSUS

Deelip Pundlikrao Sonawane and Another

..RESPONDENTS

....  
Mr. P.S. Agrawal, Advocate for appellants  
Mr. D.P. Deshpande, Advocate for respondent no.2  
....

**CORAM : R.G. AVACHAT, J.  
DATED : 07<sup>th</sup> OCTOBER, 2021**

**PER COURT :**

1. Heard.

2. This appeal has been filed for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Parbhani vide judgment and order dated 24<sup>th</sup> March, 2009 in Motor Accident Claim Petition No. 235 of 2006. It was a death claim. The claim was filed by the widow, minor son and mother of the deceased. The tribunal considered the income of the deceased at Rs.3,000/- per month notionally and deducted 1/3<sup>rd</sup> thereof towards his living and personal expenses and applying multiplier of fifteen, worked out the compensation.

3. Learned counsel for Respondent No.2 – insurance company would submit that the tribunal has awarded just and reasonable compensation. According to him, the judgment of the Apex Court in **National Insurance Company Vs. Pranay Sethi** reported in (2017) 16 SCC 680 needs to be given prospective effect. He, therefore, urged for dismissal of the appeal.

4. The submissions made by learned counsel for Respondent No.2 – insurance company are unacceptable. The judgment in Pranay Sethi's (supra) case was passed although on the reference to a larger Bench, but same was arising out of a pending claim in appeal.

5. The compensation awarded by the tribunal, therefore, needs to be worked out in terms of judgment in Pranay Sethi's (supra) case. The deceased was 35 years of age. Multiplier of sixteen is required to be applied in view of the judgment of Apex Court in the case of **Sarla Varma and Others Vs. Delhi Transport Corporation and Another** reported in (2009) 6 SCC 121. Moreover, nothing has been awarded towards future prospect. Since the deceased was self employed and died at the age of thirty five, 30% of the established notional income needs to be considered towards future prospect. Moreover, each of the claimants is awarded an amount of Rs.40,000/- towards loss of love and affection and consortium and a sum of Rs.30,000/- on account of loss of estate and funeral expenses.

6. The amount of compensation would be as under :-

|       |                                                                                                                                       |                        |
|-------|---------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| (i)   | Notional income – Rs.3,000/- p.m. x 12                                                                                                | = Rs. 36,000/-         |
| (ii)  | 30% on account of future prospect – 900 x 12                                                                                          | = Rs. 10,800/-         |
|       | Total                                                                                                                                 | = Rs. 46,800/-         |
| (iii) | Since claimants are three in number,<br>1/3 <sup>rd</sup> thereof is deducted towards personal<br>and living expenses of the deceased | = Rs.31,200/-          |
| (iv)  | Applying multiplier of sixteen, compensation<br>on account of loss of dependency is                                                   | = <b>Rs.4,99,200/-</b> |
| (v)   | Loss of consortium and loss of love and<br>affection – Rs.40,000 x 3                                                                  | = <b>Rs.1,20,000/-</b> |
| (vi)  | Funeral expenses + Loss of estate                                                                                                     | = <b>Rs.30,000/-</b>   |
|       | Total                                                                                                                                 | = <b>Rs.6,49,200/-</b> |

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

The amount of compensation awarded by tribunal is enhanced from Rs.3,16,500/- to Rs.6,49,200/-. No pendente lite interest is awarded on the sum of Rs.1,50,000/-. The amount of Rs.4,99,200/- shall carry interest @ 6% p.a. from the date of petition to the date of payment of entire amount.

If the sum of Rs.1,50,000/- awarded under the conventional heads is not paid within a period of three months from the date of this order, the same shall carry interest @ 6% p.a. from 07<sup>th</sup> January, 2022 to the date of

payment. Rest of the impugned award stands unaltered. The amount paid/deposited by Respondent No.2 – insurance company be given due set of.

**( R.G. AVACHAT, J. )**

SSD