IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1777 OF 2011

Sheela Pralhadrao Bhalerao 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

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CORAM : R.G. AVACHAT, J.
DATED : 07th OCTOBER, 2021

PER COURT :

1. Heard.

2. This appeal has been preferred for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Parbhani vide judgment and order dated 25th March, 2009 in Motor Accident Claim Petition No. 224 of 2006. It was a death claim. The deceased was said to have been self employed. A notional income of Rs.3,000/- was considered for grant of compensation.

3. Post passing of the impugned award, judgment of the Apex Court in **National Insurance Company Vs. Pranay Sethi** reported in **(2017) 16 SCC 680** came. Since the claim is pending in appeal, it would be governed by the

directions in the said judgment. The amount of compensation awarded by the tribunal is, therefore, required to be reworked out.

4. Learned counsel for Respondent No.2 – insurance company would submit that the tribunal has granted just and reasonable compensation. According to him, no increase therein is warranted in the facts and circumstances of the case.

5. Learned counsel for the appellant urged for considering notional income at Rs.5,000/- per month. He also urged for grant of compensation in terms of Apex Court judgment in the cases of Pranay Sethi (supra) and **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and Others** reported in **(2018) 18 SCC 130**.

6. The accident dates back to 2006. For want of evidence of income of the deceased, the tribunal has rightly considered the notional income at Rs.3,000/- per month. Thus, notional income of the deceased would be Rs.36,000/- per annum. The deceased was forty plus and self-employed. 25% of the established income is therefore considered for future prospect. Moreover, each of the applicant is awarded a sum of Rs.40,000/- towards loss of consortium and loss of love and affection and sum of Rs.30,000/- on account of loss of estate and funeral expenses.

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

(i)	Notional income – Rs.3,000/- p.m. x 12	= Rs. 36,000/-
(ii)	25% on account of future prospect – 750 x 12	= Rs. 9,000/-
	Total	= Rs. 45,000/-
(iii)	Since claimants are four in number, 1/4th thereof is deducted towards personal and living expenses of the deceased	= Rs.33,750/-
(iv)	Applying multiplier of fourteen, compensation on account of loss of dependency is	= **Rs.4,72,500/-**
(v)	Loss of consortium and loss of love and affection – Rs.40,000 x 4	= **Rs.1,60,000/-**
(vi)	Funeral expenses + Loss of estate	= **Rs.30,000/-**
	Total	= **Rs.6,62,500/-**

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

The amount of compensation awarded by the tribunal is enhanced from Rs.2,92,500/- to Rs.6,62,500/-. No interest pendente lite is however awarded on the sum of Rs.1,90,000/-. The amount of Rs.5,02,500/- shall carry interest @ 6% p.a. from the date of petition to the date of payment of entire amount.

If the sum of Rs.1,90,000/- 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 07th 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