

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

FIRST APPEAL NO.55 OF 2007

Rukhmabai w/o Nimba Patil & ors. ... **APPELLANTS**

VERSUS

Sahebrao Chaitram Patil & ors. ... **RESPONDENTS**

.....
Shri S.S. Jadhavar, Advocate for appellants
Shri Girish Rane, Advocate for respondent No.1.
Shri A.B. Gatne, Advocate for respondent No.3.
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CORAM : R. G. AVACHAT, J.

DATE : 13th OCTOBER, 2021

ORDER :

This is an appeal for enhancement of compensation awarded by Motor Accident Claims Tribunal (Tribunal) on account of death occurred in vehicular accident. Only a sum of Rs.1,03,500/- has been awarded as compensation inclusive of medical expenditure. It thus appears that, grossly inadequate compensation has been awarded for the death that occurred in the year 2001. The claim petition was filed by the widow and two sons of the deceased Nimba, who was said to have been doing agriculture.

2. Heard. Learned counsel for the appellants – claimants would submit that, the deceased was the sole bread winner of the family. Over Rs.60,000/- were spent towards medical expenditure. The Tribunal has awarded only Rs.7000/- on that count. Nothing has been awarded towards loss of consortium and love and affection. Notional income of the deceased was considered at Rs.18,000/- per annum. Learned counsel, therefore, urged for substantial enhancement of the compensation.

3. Learned counsel for the respondent Insurance Company would submit that, there was no evidence about the income of the deceased and medical expenditure incurred. The deceased was more than 65 years of age. His sons have been earning. The Tribunal has thus granted just and reasonable compensation. He, therefore, urged for dismissal of the appeal.

4. Considered the rival submissions. Perused the impugned award and the relevant evidence on record. The deceased was 60 plus when he breathed his last. He was agriculturist by profession. On his demise, the land has been inherited by the claimants. This Court, therefore, does not find any reason to interfere with the quantum of

compensation awarded by the Tribunal on account of loss of dependency.

5. When the impugned award was passed, the Apex Court judgments in case of **National Insurance Company Limited Vs. Pranay Sethi and others [(2017) 16 SCC 680]**. and **Magma General Insurance Company Limited Vs. Nanu Ram Alias Chuhru Ram & ors., [(2018) 18 SCC 130]** were not in the field. The compensation, therefore, needs to be awarded in terms of the Apex Court dictum in these two authorities.

6. On account of loss of consortium and loss of love and affection, each of the claimants is awarded Rs.40,000/-. While a sum of Rs.30,000/- is granted towards loss of estate and funeral expenses. The record indicates that, the deceased was admitted to a private hospital. He died long after he met with the accident. There is, therefore, no reason to doubt the claim of the appellants that they spent not less than Rs.60,000/- towards medical expenditure. The appellants would, therefore, be entitled to that much amount also. Thus, the total amount of compensation comes to Rs.96,000/- granted by the Tribunal towards loss of

dependency), plus Rs.1,10,000/- plus Rs.60,000/- = Rs.3,06,000/-. No interest, however, would be awarded on the amount of compensation granted towards loss of love and affection. In the result, the appeal partly succeeds in terms of the following order :

ORDER

(i) The impugned award granting compensation of Rs.1,03,500/- is enhanced to Rs.3,06,000/-.

(ii) The respondents No.1 and 2 shall pay interest @ 7.5% p.a. on the amount of Rs.1,86,000/- from the date of the claim petition to the date of payment of the entire amount.

(iii) The respondents shall pay interest @ 7.5% p.a. on the sum of Rs.1,20,000/- from the date of this order to the date of payment of the said amount.

(iv) Due adjustment be given to the amount already paid/ deposited by the respondent – Insurance Company.

**(R. G. AVACHAT)
JUDGE**

fmp/-