

FIRST APPEAL NO.1659 OF 2011

M/s Rinku Commercial Carrier Pvt. Ltd.
and others ... RESPONDENTS

Mr. Sachin S. Deshmukh, Advocate for appellants
Mr. Swapnil M. Mule, Advocate holding for
Mr. R.V. Gore, Advocate for respondent No.2.
Mr. M.M. Ambhore, Advocate for respondent No.3.
Mr. V.N. Upadhye, Advocate for respondent No.5.

CORAM : R. G. AVACHAT, J.

DATE : 20th DECEMBER, 2021

ORDER:

This is an appeal filed by the original claimants for enhancement of compensation. The claim has been preferred by the widow, mother and two children of the deceased. When the impugned award was passed, the Apex Court judgments in cases 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.

2. Since the appeal is continuation of the original claim petition, the same needs to be governed in terms of the directions of the Apex Court in the aforesaid judgments.

3. Learned counsel for the respondent Insurance Company would submit that, just and reasonable compensation has been awarded and as such, interference with the impugned award is unwarranted.

4. Considered the submissions advanced by learned counsel for the parties. In view of this Court, the amount of compensation needs to be worked out in terms of the directions of the Apex Court in the aforesaid two judgments.

5. The evidence indicates that, the deceased died at the age of 50. He was a labourer. The Tribunal has, therefore, rightly considered his notional income at Rs.3000/-. Thus, the annual income of the deceased would be Rs.36,000/-. 25% is added towards future prospects. Thus, the total yearly income of the deceased comes to Rs.45,000/- per year. 1/4th thereof is deducted towards personal and

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living expenses of the deceased. This way the total loss of dependency per year comes to Rs.33,750/-. Considering the age of the deceased to be 50 years, multiplier of 13 is applied. As such, the amount of compensation comes to Rs.4,38,750/-. In addition to the above, Rs.40,000/- each is awarded towards loss of love and affection. Besides, Rs.30,000/- is awarded towards funeral expenses and loss of estate. As such, the total amount of compensation comes to Rs.4,38,750/- + Rs.1,60,000/- + Rs.30,000/-. As such, the compensation of Rs.2,44,500/- is enhanced to Rs.6,28,750/-. However the amount of Rs.1,90,000/- shall not carry interest pendent lite i.e. from the date of claim petition till the date of this order.

6. In the result, the appeal partly succeeds in terms of the following order :

ORDER

- (i) The appeal is partly allowed.
- (ii) The amount of compensation of Rs.2,44,500/- is enhanced to Rs.6,28,750/-. However, the amount of Rs.1,90,000/- shall not carry interest pendent lite i.e.

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from the date of claim petition till the date of this order.

- (iii) Rest of the terms of impugned award to stand unchanged.

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

fmp/-