

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

FIRST APPEAL NO. 730 OF 2020

1. Shakuntalabai w/o Hanmantrao Biradar
Age 47 years Occu. Household
2. Shivkumar s/o Hanmantrao Biradar
Age 28 years, Occu: Education,
3. Komal d/o Hanmantrao Biradar
Age 22 years, Occu: Household,
4. Gangabai w/o Babarao Biradar
Age: 73 years, Occu. Household

All R/o Kyadarkuntha, Tq. Degloor,
Dist. Nanded

... Appellants
(Ori. Claimants)

Versus

1. Devidas s/o Gangadhar Pandhare
Age: Major, Occu. Business,
R/o Merkhed, Tq. Degloor, Dist. Nanded
2. The Oriental Insurance Company Ltd.,
Through its Branch Manager,
Branch at Santkrupa Market,
Vazirabad, Nanded

... Respondents
(Ori.Resp.No.1 & 2)

....

Mr. A. P. Basarkar, Advocate for appellants
Mr. V. N. Upadhye, Advocate for respondent No.2

....

CORAM : R. G. AVACHAT, J.

DATED : 21st OCTOBER, 2021

PER COURT :-

. This is an appeal for enhancement of compensation granted by the Motor Accident Claims Tribunal, Biloli, on account of death occurred in vehicular accident.

2. The deceased Hanmant was an agriculturist by profession. He was on his way to village Kedarguda on his motorbike on 15.02.2012. It was about 7.30 p.m., Tata Magic Auto, bearing No.MH-26-V-6189, knocked down the motorbike. Hanmant was immediately rushed to hospital at Degloor and then shifted to Nanded for better treatment. He, however, died on 23.02.2012. His widow, two children and mother, therefore preferred petition for compensation. The Tribunal granted compensation amounting to Rs. 6,54,338/-. Interest @ 7.5% p.a. was awarded thereon if failed to pay said amount within two months.

3. Heard.

Learned Advocate for the appellants would submit that the deceased had more than 15 *Acres* of irrigated land. He would do allied agricultural pursuits. The income of the deceased from agriculture was more than Rs.10,000/- p.m. The Tribunal ought to

have at least considered notional income at Rs.6,000/- per month. Nothing has been awarded towards future prospects. Under conventional heads, a nominal amount has been granted. He, therefore, urged for enhancement of compensation.

4. Learned Advocate for the respondent – Insurance Company would, on the other hand, submit that the deceased died leaving behind the agricultural land. There was no concrete evidence regarding income of the deceased. The Tribunal has awarded just and reasonable compensation. He, therefore, urged for dismissal of the appeal.

5. Considered the rival submissions. Perused the impugned award. Gone through the evidence relied on.

6. Admittedly, the deceased died on 23.02.2012 as a result of the injuries suffered in vehicular accident dated 15.02.2012. There is evidence to indicate him to have incurred medical expenditure amounting to Rs.77,738/-. The Tribunal has rightly granted that much amount of compensation towards reimbursement of medical expenditure. There is no concrete evidence about the income of the deceased. The deceased was agriculturalist.

Agricultural land remained with the appellants – claimants. In the circumstances, the Tribunal has rightly considered his notional income at Rs.4,500/- p.m. However, nothing has been awarded on account of future prospects. The deceased died at the age of 45. Therefore, 25% of his notional income is therefore added thereto for grant of compensation on account of future prospects. (Rs.4500/- + 25% i.e. +1125=Rs. 5,625/-). Annual income would become Rs.67,500/- (Rs. 5,625 X 12 = Rs.67,500/-). Since the claimants are four in number, $\frac{1}{4}$ th thereof is deducted towards his personal and living expenses (Rs.67500/- – Rs.16875/- = Rs.50,625/-). Applying the multiplier of 13 thereto, the amount of compensation comes to Rs.6,58,125/- (Rs. 50,625 X 13). A sum of Rs.77,000/- is added towards medical expenditure. Each of the claimants is awarded Rs.40,000/- towards loss of consortium and loss of love and affection. It comes to Rs.1,60,000/- (Rs. 40,000/- X 4). A sum of Rs.30,000/- is awarded towards loss of estate and funeral expenditure. No interest would, however, be awarded on this amount of Rs.1,90,000/-. (Rs.1,60,000 + 30,000). Compensation comes to Rs.9,25,125/-.

7. As such, the amount of compensation awarded by the Tribunal, deserves to be enhanced as stated herein above. In the result, appeal succeeds. Hence, following order:

ORDER

- (i) The appeal is allowed.
- (ii) The amount of compensation awarded by the Tribunal is enhanced from Rs.6,54,338/- to Rs.9,25,125/-.
- (iii) Respondent Nos.1 and 2 shall jointly and severally pay a sum of Rs.7,35,125/- (9,25,125 – 1,90,000). Interest @ 6% p.a. be paid on the amount of Rs.7,35,125/- from the date of the claim petition to the date of payment.
- (iv) Rs.1,90,000/- to carry interest at the rate of 6% p.a. from the date of order to payment, if the same is not paid within a month of this order.
- (v) The amount of compensation already paid be given due set off.
- (vi) Clause No.03 of the impugned award is withdrawn.

[R. G. AVACHAT, J.]