

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

FIRST APPEAL NO.911 OF 2011

1. Shaikh Habib s/o. Shaikh Amir,
Age :70 years, Occ. Unani Doctor,
r/o. Mhadevwadi, Hingoli,
Tq. and Dist. Hingoli
 2. Shaikh Raju Shaikh Habib,
Age:07 years, Occ. Nil,
Minor u/g. of father appellant no.1
 3. Shaikh Waseem Shaikh Habib,
Age:5 years, Occ. Nil,
Minor u/g. of father appellant no.1
r/o. As above
- ..Appellants

Vs.

1. Vaijnath s/o. Khanduappa Khasewar,
Age:50 years, Occ. Auto driver,
r/o. Jalgaon, Tq. Aundha Nagnath,
Dist. Hingoli
 2. United India Insurance Company Ltd.
Through its Branch Manager,
Dyawan Complex, Station Road,
Parbhani
- ..Respondents

Mr.P.S.Agrawal, Advocate for appellants
Mr.A.B.Gatne, Advocate for respondent no.1

**CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 23, 2021**

ORDER :-

This is an appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Hingoli ("the Tribunal", for short) in Motor Accident Claim Petition No.74 of 2006.

2. The appellants herein are legal representatives of the deceased – Sayadabi, who died in an accident involving motor vehicle (auto rickshaw) on 14.03.2006. The appellants, therefore, preferred a petition for compensation. The Tribunal, considering the notional income of the deceased at Rs.1,500/- per month and her age being in the group of 55-60 years, awarded compensation of Rs.96,000/- with interest at the rate of 6% per annum.

3. Heard learned counsel appearing for the parties.

4. Mr.Agrawal, learned counsel for the appellants, would submit that the deceased was serving as a Cook in one hotel. She would also do tailoring work. For want of concrete evidence of her income, the Tribunal ought to have considered it notionally at Rs.3,000/- per month. He would further submit

that the police papers indicate that the deceased was 45 years of age. The Tribunal, however, considered her in the age group of 55-60 years. No compensation under conventional heads is awarded. He, therefore, urged for enhancement of the compensation.

5. Mr.Gatne, learned counsel for respondent no.2 – insurance company, would, on the other hand, submit that the accident dates back to year 2006, when the rate of minimum wages was not more than Rs.50/- per day. The age of the deceased has been considered in view of the admission given by her husband. According to learned counsel, the provision for grant of compensation towards future prospects was not there, while the claim of the petitioners (appellants) was decided. He, therefore, urged for dismissal of the appeal.

6. It appears that the rate of daily wages of unskilled labour was Rs.70/- per day in the year 2006. The deceased being lady, the same is notionally considered at Rs.2,000/- per month. Although the police papers indicate her age to be 45 years, her husband gave admission suggesting her age in the

group of 55-60 years. The provision for grant of compensation on account of future prospects has been there since before the claim was decided. In view of the same, this Court is inclined to work out the compensation as under:-

Particulars		Figures in Rupees
Income of deceased per annum (Rs.2,000/- per month x 12 months)		24,000
Addition of 10% towards future prospects	+ (plus)	2,400
	:-	26,400
Since the claimants were three in number, 1/3 rd amount is deducted towards personal and living expenses of the deceased.	- (minus)	8,800
	:-	17,600
Applying multiplier of 8, amount of compensation on account of loss of dependency (Rs.17,600 x 8)	:-	1,40,800
Addition of amount towards loss of consortium in view of Pranay Sethi's case (supra) and Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and ors., (2018)18 SCC 130 i.e. Rs.40,000/- x 3 (claimants) would be -	+ (plus)	1,20,000
For funeral expenses and loss of estate	+ (plus)	30,000
Amount of compensation	Rs.	2,90,800/-

Thus, the amount of compensation comes to Rs.2,90,800/-.

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

- (i) The impugned award dated 17.08.2009 is modified. In clause (2) of the operative order, the figure Rs.96,000/- be replaced by figure Rs.2,90,800/- (Rupees Two Lakhs Ninety Thousand and Eight Hundred).
- (ii) Rest of the terms of the impugned award to stand unaltered.
- (iii) The appeal stands disposed of accordingly.

[R.G. AVACHAT, J.]

KBP