IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1404 OF 2017

1. Smt. Nisha Santosh Mane,
Age:24 years, Occ. Household,

2. Kum. Vaishnavi Santosh Mane,
Age : 3 years, Occ. Nil,

3. Chandar s/o. Dagadu Mane,
Age : 58 years, Occ. Nil

4. Sau.Vatsalabai w/o. Chandar Mane,
Age : 55 years, Occ. Nil

Applicant no.1 for herself and
legal guardian of applicant no.2

all r/o. Mirajgaon, Tq. Karjat,
Dist. Ahmednagar ..Appellants

Vs.

1. Vilas s/o. Raosaheb Bondal,
Age : 50 years, Occ. owner,
r/o. Ratanjan, Post.Kokangaon,
tq. Karjat, Dist. Ahmednagar

2. United India Insurance Co. Ltd.,
Kisan Kranti Building, Market Yard,
Ahmednagar ..Respondents

Mr.D.R.Jaybhar, Advocate for appellant
Mr.S.R.Bagal, Advocate for respondent no.2

CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 08, 2021

ORDER :-

Original claimants in Motor Accident Claim Petition No.180 of 2012, have filed this appeal for enhancement of compensation.

2. The claimants are legal representatives of deceased – Santosh, who died in accident involving motor vehicle - Max bearing registration No.MH-16-Q-8744. The Tribunal, considering notional income of the deceased at Rs.150/-, awarded compensation of Rs.6,87,000/- with interest thereon at the rate of 7% per annum.

3. Heard learned counsel for the parties.

4. Mr.Jaybhar, learned counsel for the appellants-claimants, would submit that the deceased was engaged as a sand loader at daily wages of Rs.250/-. The Tribunal, however, considered his notional income at Rs.150/- per day. It even did not make any addition towards future prospects. Considering

the number of dependents, the Tribunal ought to have deducted 1/4th, amount towards personal and living expenses of the deceased instead of deducting 1/3rd amount. Moreover, no amount has been granted to the claimants, except the widow, on account of loss of consortium. According to learned counsel, the rate of interest granted by the Tribunal, is also on lower side. He, therefore, urged for enhancement of the compensation in view of the observations of the Hon'ble Supreme Court in the cases of (i) **National Insurance Company Ltd. Vs. Pranay Sethi and ors., (2017)16 SCC 680**; and (ii) **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and ors., (2018)18 SCC 130**.

5. Mr.S.R.Bagal, learned counsel for the respondent-insurance company, would, on the other hand, submit that there was no concrete evidence of income of the deceased. The Tribunal has, therefore, rightly considered the notional income of the deceased at Rs.4,500/- per month. According to learned counsel, the observations in the cases of **Pranay Sethi** (supra) and **Magma General Insurance** (supra) may not be

applicable to the present case. He submits that the Tribunal has rightly worked out the amount of compensation and therefore, there is no need to interfere therewith.

6. The deceased - Santosh was the only child of his parents. Admittedly, the deceased died in the accident involving the motor vehicle bearing registration No.MH-16-Q-8744. The vehicle had insurance cover granted by the respondent – insurance company. The question is only as regards the quantum of compensation. The judgment in the case of **Pranay Sethi** (supra) had not been relied upon before the Tribunal and therefore, grant of compensation by the Tribunal appears to be on lower side. Moreover, as per the Maharashtra Minimum Wages with effect from 1st July, 2013 to 31st December, 2013, for unskilled labour, the total minimum wages were Rs.6978.10 per month (basic pay Rs.4750.00 + special allowance Rs.2,628.00). The deceased died in the year 2012. Considering the weekly off, I propose to consider the notional income of the deceased at Rs.5,500/- per month and proceed to work out the amount of compensation in terms of

the observations in the cases of **Pranay Sethi** (supra) and **Magma General Insurance** (supra), as under :-

Particulars		Figures in Rupees
Income of deceased per annum (Rs.5,500/- per month x 12 months)		66,000
Addition of 40% towards future prospects (deceased being below 40 years of age)	+ (plus)	26,400
	:-	92,400
Since the dependents were 4 in number, 1/4th amount is deducted in view of **Pranay Sethi's case** (supra), towards personal and living expenses of the deceased.	- (minus)	23,100
	:-	69,300
Considering age of the deceased as 30 years, multiplier of 17 is applied. Thus, the amount of compensation on account of loss of dependency would be (Rs.69,300 x 17)	:-	11,78,100
Addition of amount towards loss of consortium in view of **Pranay Sethi's case** (supra) and **Magma General Insurance's case** (supra) Rs.40,000/- x 4 (claimants i.e. widow, a child and parents), would be -	+ (plus)	1,60,000
Addition of funeral expenses and loss of estate	+ (plus)	30,000
Amount of compensation	Rs.	13,68,100

Thus, the total compensation amount comes to Rs.13,68,100/-.

7. In the result, the appeal succeeds. The impugned award is modified to the extent of amount of compensation. The amount of compensation is enhanced to Rs.13,68,100/-. Rest of the terms of the award to remain unaltered. The appeal stands disposed of accordingly.

[**R.G. AVACHAT, J.**]

KBP