IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 823 OF 2015

Chhayabai Prakash Shelke and Others ..APPELLANTS

VERSUS

United India Insurance Co. Ltd.
Through Branch Manager, Parbhani
and Another ..RESPONDENTS

....

Mr. S.S. Deshmukh, Advocate for appellants
Mr. S.S. Rathi, Advocate for respondent no.1

....

CORAM : R.G. AVACHAT, J.
DATED : 09th DECEMBER, 2021

PER COURT :

1. Heard. This is an appeal for enhancement of compensation granted on account of death in vehicular accident.

2. Learned counsel for the appellants – claimants would submit that the deceased was a professional rickshaw driver. His monthly income was not less than Rs.6,000/-. He was repaying Rs.4,000/- per month as loan installment. He would further submit that nothing has been awarded towards future prospects. A meager amount has been granted under conventional heads. He would further submit that the multiplier has wrongly been applied. He, therefore, urged for enhancement of compensation.

3. Learned counsel for Respondent No1. - insurance company would, on the other hand, submit that it was a joint family of the deceased i.e. the appellants and other siblings. There is evidence that the loan installment was being paid out of the joint family funds. He further submits that the amount awarded under the impugned award is just and reasonable one and no interference is warranted therewith. He brought to the notice of this Court that there was delay of 1449 days in preferring the appeal. Same was condoned on condition that no interest for the delayed period shall be awarded.

4. Considered the submissions advanced. Perused the impugned award. The incident dates back to 2007. There is evidence to indicate that the loan installment was being paid out of the joint family funds. Income of Rs.3,000/- per month is modest one in the days of the accident. As such, this Court is not inclined to make any enhancement in the notional income of the deceased. The amount of compensation is required to be re-worked out in terms of the Apex Court judgments in **National Insurance Company Vs. Pranay Sethi** reported in **(2017) 16 SCC 680** and **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and Others** reported in **(2018) 18 SCC 130**, same would be as under :-

Sr. No.	Particulars		Amount
1.	Monthly income of the deceased		3,000
2.	Annual income of the deceased (3,000 x 12)		36,000
3.	Plus : 40% towards future prospects	14,400	50,400
4.	Less : Since the dependents are three in number, 1/3rd thereof to be deducted towards living and personal expenses	16,800	33,600
5.	Applying multiplier of 18		6,04,800
6.	Plus : Each of the claimants awarded Rs.40,000/- towards loss of love and affection	1,20,000	7,24,800
7.	Plus : Funeral expenses and loss of estate	30,000	7,54,800

This way, the total amount of compensation would come to Rs.7,54,800/-.

5. The appeal thus stands disposed of in terms of following order :-

(i) The appeal partly succeeds.

(ii) The amount of compensation is enhanced from Rs.3,93,500/- to Rs.7,54,800/-

(iii) Amount of Rs.1,50,000/- shall not carry interest pendente lite.(i.e. from the date of petition to the date of this order)

(iv) The appellants shall also not be entitled for interest for a period of 1449 days.

(R.G. AVACHAT, J.)

SSD