

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

FIRST APPEAL NO.1153 OF 2013

Kusum w/o Dilip Madhe & ors. ... **APPELLANTS**

VERSUS

Balasaheb s/o Pandurang Shinde & anr. ... **RESPONDENTS**

.....
Mr. H.U. Dhage, Advocate for appellants
Mr. Umakant Wagh, Advocate for respondent No.1.
.....

CORAM : R. G. AVACHAT, J.

DATE : 20th DECEMBER, 2021

ORDER :

This is an appeal for enhancement of compensation granted by the Tribunal on account of death in a vehicular accident. The original claimants are in appeal. Learned counsel for the appellants would submit that, the deceased was in road building business. His monthly income was Rs.6000/-. He died young, at the age of 25. Nothing has been awarded towards future prospects. A very meagre amount has been given under conventional heads. He, therefore, urged for enhancement of compensation considering the income of the deceased notionally at Rs.6000/-.

2. Learned counsel for the respondent No.2 Insurance Company would, on the other hand, submit that, there is no evidence about income of the deceased and even his nature of business. According to him, the Tribunal has rightly considered his income at Rs.3000/-. He would further submit that, the amount under the impugned award is just and reasonable, warranting no interference therewith.

3. Considered the submissions advanced. Perused the impugned judgment. True, there is no evidence about the income of the deceased. The fact is, however, that, the accident took place in 2007. This Court is, therefore, inclined to consider his notional income at Rs.3500/- per month. As such, annual income of the deceased comes to Rs.42,000/-. 40% is added towards future prospects. As such, the total annual income of the deceased comes to Rs.58,800/-. Since the claimants are 5 in number, one fourth thereof is deducted towards personal and living expenses of the deceased. This way, the total annual dependency comes to Rs.44,100/-. Considering the age of the deceased to be 25 when he breathed his last, multiplier of 18 is applied. Applying the multiplier of 18, the amount of compensation comes to Rs.7,93,800/-.

4. In addition to the above, each of the applicants are granted Rs.40,000/- towards loss of love and affection. Besides, a sum of Rs.30,000/- is awarded towards funeral expenses and loss of estate. Thus, the total amount of compensation comes to Rs.10,23,800/- (7,93,800 + 2,30,000). However, the amount of Rs.2,30,000/- shall not carry interest pendent lite i.e. from the date of filing petition till the date of this order.

5. As such, the appeal partly succeeds. Hence the following order :

ORDER

- (i) The appeal is partly allowed.
- (ii) The Amount of compensation is enhanced from Rs.5,00,000/- to Rs.10,23,800/-
- (iii) However, the amount of Rs.2,30,000/- shall not carry interest pendent lite i.e. from the date of filing petition till the date of this order.
- (iv) Rest of the terms of the impugned award stand unchanged.

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

fmp/-