

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

FIRST APPEAL NO.761 OF 2013

The New India Assurance Co. Ltd.

..Appellants

Vs.

1. Sonali alias Ketaki Kishor Kakade
2. Usha Kisan Kakade
3. Balasaheb Laxman Tekude
4. Shaila Kailash Tekude

..Respondents

Mr.A.B.Gatne, Advocate for appellants

Mr.R.A.Tambe, Advocate for respondent no.1

Mr.R.L.Kute, Advocate for respondent nos.3 and 4

**CORAM : R.G. AVACHAT, J.
DATE : DECEMBER 08, 2021**

ORDER :-

This is an insurance company's appeal taking exception to the quantum of compensation of Rs.7,50,000/- awarded by the Motor Accident Claims Tribunal, Sangamner in Motor Accident Claim Petition No.109 of 2006, on account of death in vehicular accident. The challenge is only to the quantum of compensation.

2. Heard.

3. Learned counsel for the appellant – insurance company would submit that the deceased – Kishor was an agriculturist. The

Tribunal considered his agricultural income twice for grant of compensation, that is to say, his agricultural income was considered notionally at Rs.3,000/- per month besides a sum of Rs.2,000/- per month on account of loss of agricultural supervision charges. According to learned counsel, on demise of Kishor, the land has been inherited by the claimants and as such, it is not the case of loss of agricultural income. He, therefore, urged for scaling down the amount of compensation.

4. Learned counsel for the respondents/claimants would, on the other hand, support the impugned judgment and award. According to him, the respondents/claimants are, in fact, entitled for enhanced compensation in view of the Apex Court judgments 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. Considered the rival submissions. Perused the impugned judgment and award. In paragraph 11 of the impugned judgment, the Tribunal has considered Rs.3,000/- per month as notional income of the deceased from agriculture. The Tribunal has

additionally considered Rs.2,000/- per month towards the loss of agricultural supervisory charges. In view of this Court, the same may not be permissible. On demise of Kishor, the land remained for cultivation by his legal representatives/claimants i.e. mother and minor child. His widow is stated to have remarried and given up her claim. Due to demise of Kishor, in fact, what the claimants have suffered is, the loss that the deceased was supervising the agriculture and now they are required to engage someone to do the same.

6. The Tribunal did not grant any compensation on account of future prospects. A very meagre amount was awarded under conventional heads. Even if the contention of learned counsel for the appellant-insurance company is accepted as it is, the quantum of compensation awarded under the impugned award is not likely to be varied on lower side. This Court is, therefore, not inclined to interfere with the impugned award. As such, the appeal stands disposed of with the aforesaid observations.

7. The amount in deposit, if any, with this Court or the Tribunal, be paid to the claimants with interest accrued thereon.

[R.G. AVACHAT, J.]