

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

FIRST APPEAL NO. 3662 OF 2016

1. Jayashri Jayvant Kakulate
Age 39 years, Occu. Nil
2. Kanoj Jayvant Kakulate
Age 30 years, Occ. Education
3. Priyanka Jayvant Kakulate
Age 25 years, Occ. Education
4. Dhondu Nattu Kakulate - **[Deleted]**
5. Mankarnabai Dhondur Kakulate
Age 83 years, Occ. Nil

All R/o Dhamanar, Taluka Sakri
District Dhule

... Appellants
(Original Claimants)

Versus

1. Gautam Champalal Lunawat
Occ. Maruti Omni Owner
R/o Tongaon, Taluka and District Jalgaon
2. Reliance General Insurance Co. Ltd.
Jalgaon (through Manager, Reliance
General Insurance Company Ltd.,
Next to Royal Industrial Estate
Wadala West, Mumbai – 400 001
(Insurer of Maruti Omni
No. MH-01-MA-3372)

... Respondents

....

Ms S. T. Kazi, Advocate for appellants

Mr. D. M. Mane, Advocate for respondent No.1

Mr. S. S. Dargad, Advocate h/f Mr. S. G. Chapalgaonkar, Advocate for
respondent No.2

....

CORAM : R. G. AVACHAT, J.

DATED : 06th OCTOBER, 2021.

PER COURT :-

. This is an appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Dhule in Motor Accident Claim Petition No. 1047 of 2009. It was a death claim. The appellants herein are the legal representatives of the deceased Jayvant, who died in an accident involving motor vehicle. The Tribunal has awarded a sum of Rs.13,50,000/- as compensation with interest at the rate 9% p.a. The challenge is mainly on the ground of non grant of compensation under conventional heads, such as loss of love and affection, funeral expenses and loss of estate.

2. Heard.

Learned Advocate for the appellants relied on the judgments of the Apex Court in the cases of *National Insurance Company Limited Vs Pranay Sethi and others – (2017) 16 SCC 680* and *Magma General Insurance Company Limited vs Nanu Ram alias Chuhru Ram and others – (2018) 18 SCC 130*, and urged for grant of compensation in terms of these judgments.

3. Learned Advocate for the respondent – Insurance Company would, on the other hand, submit that just and adequate compensation has been awarded by the Tribunal. Higher side multiplier has been applied to work out compensation on account of loss of dependency. Moreover, 30% of the amount has been considered towards future prospects instead of 25%. Learned Advocate, therefore, urged for dismissal of the appeal.

4. It needs to be stated that the respondent – Insurance Company had filed appeal against the impugned judgment and award. The said appeal has been dismissed vide order dated 12.10.2015. As such, learned Advocate for the respondent – Insurance Company could not be heard on the question of quantum of compensation awarded under the impugned award.

5. The Tribunal has awarded only Rs.39,600/- towards loss of love and affection and funeral expenses. In terms of the directions in the aforesaid judgments of the Apex Court, it should be Rs.40,000/- for each of the applicants besides a sum of Rs.30,000/- towards loss of estate and funeral expenses. This Court is therefore

inclined to grant that much amount as compensation, minus a sum of Rs.39,600/- already awarded on that count. The calculations are as under:-

Total appellants/claimants = 5
(Appellant No.4 is deleted)

Rs.40,000/- (each claimant i.e. 4)	Rs.1,60,000/-
Plus	+ Rs. 30,000/-
	=====
	Rs.1,90,000/-
Minus	- Rs. 39,600/-

Total =	Rs.1,50,400/-
	=====

6. Considering the impugned judgment and award, the Tribunal has rightly worked out the amount of compensation on account of loss of dependency. This appeal has been preferred long after the impugned award was passed. Even after the appeal preferred by the respondent – Insurance Company against the impugned award was dismissed on merits. This Court has already condoned the delay in preferring the present appeal. In view of this Court, the appellants will not be entitled for component of interest on the amount awarded by this Court for the period preceding the date of registration of this appeal.

7. In the result, the appeal partly succeeds. Hence, following order.

ORDER

- (i) The First Appeal is partly allowed.
- (ii) The amount of compensation awarded by the Tribunal is enhanced by Rs.1,50,400/- with 6% interest thereon from the date of issuance of notice in this First Appeal i.e. 16.07.2019 to the date of payment.
- (iii) The amount of compensation, if any, deposited with this Court or the Tribunal, be paid to the claimants with interest accrued thereon, immediately.

[R. G. AVACHAT, J.]