

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1015 FIRST APPEAL NO.1558 OF 2012

1. Mrs. Shasikala Pandurang Aadsare
Age 32 years, Occ. Household
2. Prayanka Pandurang Aadsare
Age 14 years, Occ. Education
3. Omkar Pandurang Aadsare
Age 12 years, Occ. Education
4. Murlidhar Changdeo Aadsare
Age 75 years, Occ. Nil
5. Saw. Laxmibai Murlidhar Aadsare
Age 70 years, Occ. Nil

Appellant No.1 for herself and as
legal guardian as appellant
Nos. 2 and 3

All R/o. Bhushannagar, Kedgaon
District Ahmednagar

...Appellants
(Ori. Claimants)

versus

1. Pandurang Jagannath Musale
Age major, Occ. Owner
R/o. Plot No.3, Near Sapkal Hospital
Savadi, Ahmednagar
2. National Insurance Co. Ltd
(Notice be served on its
Branch Manager, Ahmednagar
Branch Ahmednagar)

...Respondents
(Ori. respondents)

.....

Mr. Shubham Jaybhar h/f Mr. D.R. Jaybhar, advocate for the appellants
Mr. S. P. Chapalgaonkar, advocate for respondent No.2.

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CORAM : S. G. DIGE, J.
DATED : 23rd SEPTEMBER, 2022

JUDGMENT:-

1. Being aggrieved and dissatisfied with the judgment and award

dated 23.1.2012 passed by the Motor Accident Claims Tribunal, Ahmednagar (for short "the Tribunal") in M.A.C.P. No. 480 of 2006, the appellants-original claimants prefer this appeal for enhancement of compensation.

2. It is the contention of the learned counsel for the appellants that in the accident which was occurred on 19.9.2006, deceased Pandurang was seriously injured and died due to accidental injuries. The Tribunal has awarded meager amount of compensation. The Tribunal while awarding compensation has not considered granting of compensation for future prospectus, the multiplier is not properly applied, the consortium amount is also not awarded. Hence, requested to allow this first appeal.

3. It is the contention of learned counsel for respondent No.2 that the Tribunal has awarded the compensation on the basis of evidence led before the Tribunal. The Tribunal has considered all aspects while awarding the compensation. Hence, the judgment and order passed by the Tribunal is legal and valid.

4. I have heard learned counsel for both the parties, perused the judgment and order passed by the Tribunal.

5. The issue involved in this appeal is that the amount towards future prospectus, consortium, expenses for funeral, loss of estate

are not awarded. The Tribunal has awarded Rs.11,00,000/- as compensation to the appellants. The Tribunal has considered the yearly income of deceased at Rs.1,00,000/-. After making deduction for his own expenses, the same is considered as Rs.75,000/-. The Tribunal has not awarded future prospects. As per the view expressed by the Hon'ble Apex Court in the case of ***National Insurance Company Limited vs Pranay Sethi and others, reported in AIR 2017 SC 5157***, appellants are entitled for 40% additional income. Then, it comes to Rs.1,40,000/-. The Tribunal has deducted 1/3rd amount for personal expenses of deceased. The said 1/3rd amount comes to Rs.35,000/-. The Tribunal has awarded Rs.5000/- towards funeral expenses. As per the view expressed by the Hon'ble Apex Court in the case of ***Magma General Insurance Company Ltd. Nanu Ram, reported in 2018 SCC Online SC 1546***, each of the appellants is entitled for Rs.40,000/- as consortium amount. The appellants are widow, children, mother and father of the deceased. There are total five appellants the amount comes to Rs.2,00,000/-. The funeral expenses of Rs.5000/- is awarded by the Tribunal, however, I am considering it as Rs.15,000/- and for loss of estate for Rs.15,000/-. Thus, considering the above calculation, the appellants are entitled for the following compensation:-

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Sr. No.	Head	Amount awarded by Tribunal (Rs.)	Enhancement sought (Rs.)	Net Enhancement (Rs.)
1		Income of deceased Rs.1,00,000.00 p.a.		
2	Loss of Income	10,50,000/- (75,000x14) one Lakh P.A. income	40% future prospectus, 1,00,000+40,000 = 1,40,000/- Deduction held by Tribunal, hence, 1,40,000-35,000= 1,05,000 1,05,000/- x 14= 14,70,000/-	4,20,000/-
3	Consortium	5000/-	40,000 x 5 = 2,00,000/-	1,95,000/-
4	Funeral expenses	5000/-	15,000/-	10,000/-
5	Loss of estate	—	15,000/-	15,000/-
6	Total	11,00,000/- (lump-sum)	17,00,000/-	6,40,000/-

6. The Tribunal has granted lump-sum compensation of Rs.11,00,000/- as compensation, including no fault liability amount of Rs.50,000/-. As per the calculation of this Court, the total amount comes to Rs.17,00,000/-. If amount already granted is deducted from Rs.17,00,000/- then it comes to Rs.6,40,000/-. Hence, the appellants are entitled for enhanced amount of Rs.6,40,000/- with interest @ 6% p.a. thereon. In view of above, I pass the following order:-

O R D E R

I. The first appeal is allowed.

II. The respondent Nos. 1 and 2 shall jointly and severally pay

Rs.6,40,000/- (Rupees Six lacs forty thousand only) as compensation to the appellants with interest @ 6% p.a. from the date of filing of petition till actual realization of the amount.

- III. Respondent Nos. 1 and 2 shall deposit the enhanced amount before this court within six weeks from today.
- IV. The appellants are permitted to withdraw the deposited amount with interest.
- V. First appeal is accordingly disposed of.

(S. G. DIGE, J.)

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