

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

FIRST APPEAL NO. 1454 OF 2004

UNITED INDIA INSURANCE CO LTD

VERSUS

SUREKHA RAMDAS CHAUDHARI MAHALE
AND OTHERS

....
Advocate for the appellant : Mr. A. B. Gatne
Advocate for Respondent Nos. 1 to 6 :
Mr. S. N. Suryawanshi h/f
Mr. D. J. Patil
.....

**CORAM : S. G. DIGE, J.
DATE : 20.09.2022**

ORDER :-

The issue involved in this appeal is the income of the deceased, considered by the Tribunal.

2. It is the contention of learned counsel for the appellant that, the Tribunal has considered the income of the deceased at Rs. 5,000/- per month, when he was doing milk business. No evidence is produced on record to prove that he was getting Rs. 5,000/- per month from the milk business. In spite of that, the Tribunal has considered Rs. 5,000/- as income of the deceased, which is on higher side. Hence requested to

allow the appeal.

3. It is the contention of learned counsel for respondent Nos. 1, 5 and 6 that, it has come in the evidence of wife of deceased that, deceased was earning Rs. 5,000/- to 6,000/- per month from the milk business. The Tribunal ought to have considered Rs. 6,000/- per month as income of the deceased, but it is considered as Rs. 5,000/- which is proper. The judgment and order passed by the Tribunal is legal and valid.

4. I have heard both the learned counsel. Perused the judgment and order passed by the Tribunal. The issue in this appeal is income of deceased, considered as Rs. 5,000/- per month by the Tribunal. The wife of deceased, P. W. no.1 has stated in her evidence that, her deceased husband was earning Rs. 5,000/- to Rs. 6,000/- per month by doing the milk business. The Tribunal has observed that, the deceased was maintaining his wife, three minor daughters and two aged parents from the said income. Deceased had no other source of income. When the deceased was maintaining seven persons, then deceased must be earning Rs. 5,000/- per month by doing the milk business. I do not find any infirmity in the observations of the Tribunal, as the Tribunal has considered proper income of the

deceased. In view of above, I pass the following order.

ORDER

- (i) The appeal is dismissed.
- (ii) No order as to costs.
- (iii) Respondent Nos. 1 to 6 are permitted to withdraw deposited amount if not withdrawn.

**(S.G. DIGE,)
JUDGE**

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