

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

994 FIRST APPEAL NO.1033 OF 2022

The Reliance General Insurance Co.Ltd.
Amber Plaza building Station Road
Aurangabad.
Through its Officer
Age: Major, Occ. Service
R/o : C/o. Reliance General
Insurance Company Ltd. In front of LIC,
Divisional Office IInd Floor, ABC Complex,
Adalat road, Aurangabad.

.. APPELLANT

VERSUS

- 1] Vaishali w/o. Bappa Kate
Age: 28 years, Occu : Household.
- 2] Ganesh s/o. Bappa Kate
Age: 11 years, Occu : Education.
- 3] Umesh s/o. Bappa Kate
Age: 7 years, minor.
Respondent no.2 and 3 are minors
under guardianship of natural
mother resp no.1.
- 4] Kiskinda w/o. Subhash Kate
Age: 58 years, Occu : Household
- 5] Subhash s/o. Dnyanoba Kate
Age: 63 years, Occu : Agril.
All R/o. Dhavjyachiwadi,
Tq. Dist. Beed.
- 6] Chhatrabhuj s/o. Kondiba Tandle
Age : Major, Occu : Owner
R/o. Tandlyachiwadi, Tq. Dist. Beed.

- 7] Bapurao s/o. Chhatrabhuj Tandle,
Age: major, Occu. Driver,
R/o. Tandlyachiwadi, Tq. Dist. Beed

.. RESPONDENTS

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Mr. Swapnil S. Patil, Advocate holding for Mr. R.H.Dahat,
Advocate for the appellant.

Mr.Suhas R. Shirsat, Advocate for respondent nos.1 to 5.

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CORAM : S.G.DIGE, J.

DATE : 13.09.2022

P.C. :

- 1] Heard the learned counsel for the appellant and
the learned counsel for respondent nos.1 to 5.

- 2] The issue involved in this appeal is that the
compensation granted by the Tribunal is on higher side.

Brief facts of the case are as under:

- 3] On 30th January, 2018 at about 8.00 p.m.
deceased Bappa Kate was standing in front of Hotel Ashoka
for catching vehicle to return at home. At the relevant time,
Tempo bearing registration No. MH-23/W-1941 was
standing in front of Hotel Ashoka. The driver of aforesaid

Tempo then took his aforesaid Tempo at reverse side rashly, negligently and without observing cautiousness and thereby gave dash to the deceased. Due to said dash, the deceased fell down and sustained several multiple injuries. Thereafter, the deceased succumbed to injuries. A crime was registered against the temp driver.

4] Respondent nos.1 to 5 original claimants filed claim petition before the Motor Accident Claims Tribunal, Beed [for short 'the Tribunal'] for getting compensation. Considering the evidence on record and after hearing the parties, the Tribunal has awarded the compensation. The said judgment and award is under challenge.

5] It is the contention of the learned counsel for the appellant that the Tribunal has considered monthly income of the deceased on higher side. The Tribunal has granted Rs.1,00,000/- under the head of loss of estate, which is exorbitant, hence, requested to allow the appeal.

6] It is the contention of the learned counsel for respondent nos. 1 to 5 that the deceased was agriculturist. The agricultural land of the claimants is in the name of the deceased. The deceased was doing milk business also. Considering these facts, the Tribunal has rightly considered the income of the deceased as Rs.1,00,000/- per annum, which is proper. Hence, the order passed by the Tribunal is legal and valid.

7] I have heard both learned counsel. Perused the judgment and order passed by the Tribunal.

8] The issue involved in this appeal is in respect of the income of the deceased and the compensation granted under the head of loss of estate. It has come in the evidence of applicant no.1 that the deceased was doing agricultural work and the agricultural land is in the name of the deceased. Apart from doing agricultural work, he was doing milk business. The Tribunal has considered annual income of Rs.1,00,000/- p.a. I do not find any infirmity in it.

9] In respect of loss of estate, the Tribunal has awarded the amount of Rs.1,00,000/-, in my view, it is exorbitant. As per the view taken by the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others** reported in [2017] 16 SCC 680, I am considering it Rs.15,000/-.

8] Considering the above reasons, I pass the following order:-

ORDER

i] Appeal is partly allowed.

ii] The amount of Rs.1,00,000/- awarded under the head of loss of estate to respondent nos.1 to 5 is reduced to Rs.15,000/-.

iii] Rest of the judgment and award passed by the Tribunal is confirmed.

iv] Respondent nos.1 to 5 are directed to refund the amount of Rs.85,000/-, if withdrawn by them.

v] The appellant is permitted to withdraw the amount deposited by the respondent nos.1 to 5.

vi] Appeal is disposed of accordingly.

[S.G.DIGE]
JUDGE

DDC