

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

FIRST APPEAL NO. 2756 OF 2018

M/s. Shriram General Insurance
Company Limited
Through : The Branch Manager,
E-8, EPIP, RIICO, Industrial Area,
Sitapura, Jaipur,
Rajasthan – 302 022
Through its Branch Manager/
Authorised Signatory,
Branch at Aurangabad

..APPELLANT
(Original Resp. No.2)

VERSUS

1. Latabai Dilip Rodge
Age : 50 years, Occ : Household,
2. Dilip Ramhari Rodge
Age : 55 years, Occ : Labour & Agri.,

Both R/o Krukhe, Tq. Rahata,
Dist. Ahmednagar.

3. Anil Manohar Lokhande
Age : Major, Occ : Business,
R/o Kolhar (Bu.), Tq. Rahata,
District Ahmednagar.

..RESPONDENTS
(Resdt. Nos.1 & 2 – Ori. Claimants
Respt. No.3 – Ori. Respt. No.1)

...

Advocate for Appellant : Mr.S.G. Chapalgaonkar
Advocate for Respondent Nos.1 and 2 : Mr.S.B. Tarde

CORAM : S.G.DIGE, J.

RESERVED ON : 07.09.2022

PRONOUNCED ON : 11.10.2022

JUDGMENT :

The challenge in this appeal is to compensation awarded on higher side.

2. It is the contention of the learned counsel for the appellant that the deceased was 18 years old boy. He was taking education and working as labour at centering site. The Tribunal has considered his monthly income of Rs.6,000/-. The deceased was bachelor. The Tribunal has deducted 1/3 amount for personal expenses, it should be 1/2 amount. The Tribunal has awarded 50% as future prospects, it should be 40%. Hence requested to allow the appeal.

3. It is the contention of respondent nos.1 and 2 that the deceased was taking education and was also doing centering work at construction site and was getting

Rs.6,000/- per month. The Tribunal has awarded compensation on the basis of the evidence led before the Tribunal. The 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.

5. The issue involved in this appeal is quantum of compensation.

6. It has come in the evidence of Latabai Rodge (PW-1) at Exhibit-31 that the deceased was doing labour work into the building being constructed on the road proceeding from Ratata to Nagar. The deceased was getting Rs.6,000/- per month from centering work. The Tribunal has considered the monthly income of deceased at Rs.6,000/-. I do not find any infirmity in it as it has come in the evidence of PW-1 and PW-2 that the deceased was doing labour work of centering at construction site and he was

getting Rs.6,000/- per month.

7. The Tribunal has deducted 1/3rd amount as personal expenses of the deceased. Admittedly, the deceased was bachelor, so it should be 1/2 deductions for personal expenses. The Tribunal has awarded 50% amount as an additional income. As per the view of the Hon'ble Apex Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and others* reported in (2017) 16 SCC 680, it should be 40%.

8. In view of the above calculation, respondent nos.1 and 2 are entitle for following compensation :-

Head	Compensation awarded
1. Income as considered by Tribunal	: Rs. 6,000/-
2. Add. 40% future prospects (instead of 50% as added by Tribunal)	: Rs.2,400/-
3. Deduction for personal and living expenses (1/2 as deceased was bachelor instead of 1/3rd)	: Rs.4,200/-

4. Monthly dependency : Rs.4,200/-
5. Annual Dependency : Rs.50,400/-
6. Multiplier : 18
7. Pecuniary loss : Rs.9,07,200/-
8. Non-pecuniary losses : Rs.1,10,000/-
 - (a) Funeral Expenses : Rs.15,000/-
 - (b) Loss of Estate : Rs.15,000/-
 - (c) Consortium : Rs.80,000/-
9. Medical expenses as awarded by Tribunal : Rs.1,48,399/-
10. Total Compensation : Rs.11,65,599/-
(9,07,200/- + 1,10,000/- + 1,48,399/-)
11. Amount awarded by Tribunal : Rs.14,69,399/-
12. Amount payable to claimants : Rs.11,65,599/-
13. Difference
(Rs.14,69,399 – Rs.11,65,599): Rs.3,03,800/-
14. Refund to Insurance Company : Rs.03,03,800/-
with proportionate interest thereon

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

ORDER

- (i) The appeal is allowed.

(ii) The amount of compensation is reduced from Rs.14,69,399/- to Rs.11,65,599/-. The respondent nos.1 and 2 are entitled for amount of Rs.11,65,599/- @ 8% from the date of filing of the petition till its realization.

(iii) The Registry of this Court shall refund amount of Rs.3,03,800/- (Rs. Three Lacs Three thousand Eight Hundred only) to the appellant along with accrued interest thereon.

(iv) The appellant is entitled to withdraw amount of Rs.3,03,800/- along with accrued interest thereon.

(v) The respondent nos.1 and 2 are permitted to withdraw deposited amount along with interest on it if not withdrawn.

(vi) The appeal is disposed of in above terms.

[S.G.DIGE]
JUDGE

SGA/-