IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.524 OF 2014

1. Raosaheb s/o. Kisan Patare,
Age: 54 years, Occu. Service & Agril.,
R/o. Kharvandi, Tal.Newasa,
Dist. Ahmednagar.

2. Smt. Tarabai Raosaheb Patare,
Age: 44 years, Occu. Household,
R/o. Kharvandi, Tal.Newasa,
Dist.Ahmednagar. .. **Appellants**
[Orig.Claimants]

VERSUS

1. Satish s/o. Kundlik Pawar,
Age: Major, Occu.Truck owner,
R/o.1, 'Pasaydan',
Sandeshnagar, Vasant Tekadi,
Ahmednagar, Tal. & Dist. Ahmednagar
& R/o. Dahigaone, Tal. Shevgaon,
Dist. Ahmednagar.

2. Anil Kakasaheb Sonawane,
Age : Major, Occu. Truck Driver,
R/o. Gajrajnagar, Tal. & Dist. Ahmednagar,
& R/o. Pokhardi-Shivar,
Tal. & Dist. Ahmednagar.

3. ICICI Lombard,
General Insurance Co. Ltd.,
Peninsula House, No.17, 4th Floor,
Dr.D.N.Road, Fort, Mumbai-400 001.
.. **Respondents**
[Orig. Opponents]

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Mr.Abhijit C. Darandale, Advocate for the appellants.
Mr.Abhijit Choudhary, Advocate for respondent no.3.

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CORAM : S.G.DIGE, J.

Reserved on : 28.06.2022
Pronounced on : 08.07.2022

JUDGMENT :

1] This is an appeal for enhancement of compensation granted by the Motor Accident Claims Tribunal, Shrirampur on account of death in vehicular accident.

2] The appellants are parents of deceased Sachin, a 27 year old Science stream student. The Tribunal considered deceased Sachin's income notionally at Rs.3,000/- per month, applied multiplier considering the average age of the parents and granted compensation of Rs.2,77,000/- along with interest @ Rs.9% per annum.

3] The learned counsel for the appellants submits that the deceased was meritorious student. He had scored distinction in every examination. He was helping his father in agricultural work. The deceased was the only son of appellants. The deceased had a bright future as he was intending to pursue M.Sc. after completing B.Sc. The learned counsel further submits that the notional income of the deceased should have been considered at least, at Rs.5,000/- per month. The multiplier of the parents of the deceased is considered by the learned Tribunal, it should have been of deceased. The learned Tribunal has not awarded any amount in respect of future prospects and conventional heads. Hence requested to allow the appeal. The learned counsel relied upon the judgments of the Apex Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi and others,** reported in **[2017] 16 SCC 680**.

4] The learned counsel for the respondent – Insurance Company submits that there was no evidence before the Tribunal regarding deceased was doing agricultural work. The learned Tribunal has considered all the aspects and awarded just and proper compensation, hence, requested to dismiss the appeal.

5] I have heard both the learned counsel. I have gone through the judgment and award passed by the Tribunal. Admittedly, at the time of accident deceased was 27 years old. The learned Tribunal has considered the notional income of deceased of Rs.3,000/-. In the evidence of appellant it has come on record that deceased Sachin was his only son. In holidays and spare time, Sachin would help and manage agricultural business. Due to his management, the appellant got profitable income from agricultural business. Sachin was also helping in milk business. In cross examination, it has been pointed out that agricultural land is in the name of appellant and Sachin would busy in college and study for whole day. The learned Tribunal has observed that there is nothing on record to show that how and what income deceased was earning prior to the accident. In my view, the Tribunal has not considered the evidence of the appellant that Sachin was his only son and would help him in holidays and spare time. So it is not possible to bring any evidence in respect of earning in that regard. The deceased was last year student of

Bachelor of Science. He was meritorious students. He was 27 years old. Hence, I am inclined to consider the notional income at Rs.4,000/- per month. As such, the annual income of the deceased would come to Rs.48,000/-. The learned Tribunal has not considered future prospects of the deceased. Hence, forty percent is considered as future prospects. As such, the amount would come to Rs.67,200/- [Rs.48,000/- + Rs.19,200/-]. Since the deceased died bachelor, 50% thereof is subtracted towards his living expenses. This way, the loss of annual dependency would come to Rs.33,600/-. The learned Tribunal has considered the average age of the parents for multiplier. In the case of **National Insurance Company Ltd. (supra),** the Hon'ble Apex Court has held that the age of deceased should be the basis for applying the multiplier. Hence, multiplier of 17 is applied. As such, the amount on account of loss of dependency would come to Rs.5,71,200/- [Rs.33,600 x 17].

6] The appellants are also granted a sum of Rs.40,000/- each towards loss of love and affection besides a sum of Rs.30,000/- towards loss of estate and funeral expenses. No interest *pendente lite* is awarded on this amount. As such, the total amount of compensation would come to Rs.6,81,200/-.

7] In view of the above, the appeal is partly allowed in terms of the following order :-

ORDER

i] The appeal is partly allowed.

ii] The amount of compensation is enhanced from Rs.2,77,000/- to Rs.6,81,200/-. The rate of interest is scaled down 9% per annum to 6% per annum.

iii] The amount of compensation i.e. Rs.1,10,000/- shall not carry interest *pendente lite* i.e. from the date of the claim petition to the date of this order.

[S.G.DIGE]
JUDGE

DDC