

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 214 OF 2008

1. Gulsher Khan Shamsheer Khan,
Age : 48 years, Occu. : Nil,
2. Zubedabee Gulsher Khan,
Age : 42 years, Occu. : Household,
both R/o. : Inamdar Mohalla,
Rahim chowk, Aundha Nagnath,
Tq. Aundha, Dist. Hingoli

... APPELLANTS
(Ori. Petitioner)

VERSUS

1. Sayyed Khalil Sayyed Habib,
Age : 40 years, Occu. : Business & auto owner
R/o. : Phaltan, Hingoli, Tq. & Dist. Hingoli,
2. United India Insurance Co. Limited,
Through its Branch Manager,
Dayawan complex, Station road, Parbhani,
3. Digamber Ashruji Warhade,
Age : 40 years, Occu. : Business, Tempo owner,
R/o. : Ratnapur, Tq. Menkar, Dist. Buldhana,
4. The New India Assurance Company Ltd.,
Through its Branch Manager,
Yeshodeep Building Parbhani

... RESPONDENTS
(Ori. Respondents)

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Ms. A.N. Ansari : Advocate for Appellants
 Mr. S.V. Kulkarni : Advocate for Respondent No.2
 Mr. A.S. Usmanpurkar : Advocate for Respondent No.4

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CORAM : S.G. DIGE, J.

DATE : 29th September, 2022

JUDGMENT :

. This appeal is preferred by the appellants - original claimants for enhancement of compensation.

2. It is contention of learned Counsel for appellants that, Mehboob Khan - deceased was 18 years old boy. He was son of appellants. He was getting income of Rs.3,000/-. The appellants filed claim petition claiming Rs.3,60,000/-. Though there is evidence on record about the deceased, the Tribunal has awarded meagre amount of compensation of Rs.1,60,000/-. By way of this appeal the appellants are claiming amount of Rs.1,50,000/- as enhanced compensation. Hence, requested to allow the appeal.

3. Learned Counsel for respondent No.2 and learned Counsel for respondent No.4 submitted that, while awarding the compensation, the Tribunal has considered all the facts and evidence and on that basis the compensation is awarded. Appellants failed to prove that, deceased was earning Rs.3,000/- per month. Hence, order passed by the

Tribunal is legal and valid.

4. Both the learned Counsel further submits that, if this Court comes to conclusion for enhancement of any amount, then the said amount of compensation be distributed as per order passed by the Tribunal.

5. I have heard all the learned Counsel. Perused judgment and order passed by the Tribunal.

6. Admittedly, the deceased was 18 years old. Appellants are the parents of the deceased. Though the evidence was produced on record, the Tribunal has awarded compensation of Rs.1,60,000/- only. In my view, considering the age of deceased, the compensation is not awarded under various heads i.e. consortium of Rs.80,000/- to appellants, amount of Rs.30,000/- for funeral expenses and loss of asset and amount of Rs.40,000/- for transportation. Hence, appellants are entitle for the amount of Rs.1,50,000/- as enhanced compensation.

7. In view of the above, I pass the following order :-

ORDER

- (a) Appeal is partly allowed.
- (b) Appellants are entitle for Rs.1,50,000/- as enhanced amount @6% interest per annum from the date of petition till its realisation.
- (c) Respondent Nos.1 and 2 are jointly and severally pay amount of Rs.75,000/- @ 6% p.a. from the date of petition till its realisation including accrued interest thereon.
- (d) Respondent Nos.3 and 4 are jointly and severally pay amount of Rs.75,000/- @ 6% p.a. from the date of petition till its realisation including accrued interest thereon.
- (e) Respondents shall deposit enhanced amount within eight (08) weeks before this Court.
- (f) Appellants are permitted to withdraw the deposited amount.
- (g) Appeal is disposed of.

(S.G.DIGE, J.)