

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

FIRST APPEAL NO. 580 OF 2020

1. Anjali W/o Uttam Ingale
Age : 31 years, Occ : Household,
2. Tanhai D/o Uttam Ingale
Age : 12 years, Occ : Nil,
3. Sugriv S/o Uttam Ingale
Age : 10 years, Occ : Nil,
4. Motiram S/o Uttam Ingale
Age : 08 years, Occ : Minor,

Appellant Nos.2 to 4 all minors
U/G of their real mother
Anjali W/o Uttam Ingale i.e.
appellant no.1
All R/o Maher, Tq. Purna,
Dist. Parbhani

5. Gorakhnath S/o Jijaji Ingale
Age : 63 years, Occ : Agri.,
6. Vatchalabai W/o Gorakhnath Ingale
Age : 56 years, Occ : Household,

Both R/o Maher, Tq. Purna,
Dist. Parbhani.

..APPELLANTS
(Original Claimants)

VERSUS

1. Trimbakrao S/o Munjaji More
Age : Major years, Occ : Business,
R/o Aherwadi, Tq. Purna,
Dist. Parbhani.

2. United India Insurance Co. Ltd.,
Through its Branch Manager,
Branch at Iind Floor, Dayawan Complex,
Near Jadhani Hotel, Station Road,
Parbhani, Dist. Parbhani.

..RESPONDENTS
(Original Respondents)

...

Advocate for Appellants : Mr.M.P. Kale,
Advocate for Respondent No. 2 : Mr. A.G. Kanade

CORAM : S.G.DIGE, J.
DATE : 04.08.2022

JUDGMENT :

The short issue of non-consideration of future prospects and consortium amount is involved in this appeal.

2. Deceased Uttam Gorkhnath Ingale was died in an accident occurred on 3rd February, 2010. The claimants-appellants filed claim petition for getting compensation before Member, Motor Accident Claims Tribunal, Parbhani (for short, “the Tribunal”). The Tribunal has awarded compensation of Rs.6,64,800/-. Against the said judgment and order, this appeal.

3. It is the contention of the learned counsel for the appellants that the Tribunal has not considered the future prospects amount and consortium amount in the awarded compensation. Whereas, it is the contention of the learned counsel for respondent no.2 that the Tribunal has passed the award on the basis of the evidence led before the Tribunal and has properly calculated the compensation amount.

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

5. Admittedly, while awarding the compensation, the Tribunal has not considered the amount of future prospects and consortium amount. The Tribunal has considered the notional income of the deceased of Rs.3,500/- and has awarded the compensation.

6. The Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others***

reported in **(2017) 16 SCC 680** has held that in case the deceased was self-employed or on a fixed salary, and was below 40 years of age, an addition of 40% of the established income should be granted towards future prospects. The future prospects is to be awarded on the basis of (i) the nature of the deceased's employment and (ii) the age of the deceased.

7. In the case of ***Magma General Insurance Co. Ltd. Vs. Nanu Ram*** reported in **2018 SCC Online SC 1546**, the Hon'ble Apex Court has held that in legal parlance, "consortium" is a compendious term which encompasses 'spousal consortium', 'parental consortium', and 'filial consortium'. The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse. Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving

spouse for loss of “company, society, co-operation, affection, and aid of the other in every conjugal relation.” Parental consortium is granted to the child upon the premature death of a parent, for loss of “parental aid, protection, affection, society, discipline, guidance and training.”

8. In view of the above observations of the Hon’ble Apex Court, the appellants are entitle for consortium. These appellants are the family members of the deceased, hence they are entitled for consortium amount of Rs.40,000/- each i.e. Rs.2,40,000/-. The Tribunal has awarded Rs.10,000/- for funeral expenses, it should be Rs.15,000/-. The appellants are also entitle for amount of Rs.15,000/- for loss of estate.

9. In view of the above discussion, the appellants are entitled for following compensation amount :-

Sr. No.	Head	Compensation awarded
1.	Notional income	Rs.3500/- per month
2.	Future Prospects	Rs.1,400/- (i.e. 40% of the income)

3.	Deduction towards personal expenditure (There are 6 dependents)	Rs.980/- (i.e. 1/5th of 3,500 + 1,400)
4.	Total Income (Rs.4,900 – Rs.980/-)	Rs.3,920/- per month
5.	Multiplier (Deceased Age 25)	18
6.	Loss of Future Income	Rs.8,46,720/- (Rs.3,920 x 12 x 18)
7.	Funeral Expenses	Rs.15,000/-
8.	Loss of Estate	Rs.15,000/-
9.	Consortium amount.	Rs.2,40,000/- (Rs.40,000/- payable to 6 dependents)
10.	Total compensation awarded	Rs.11,16,720/-

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

ORDER

- (i) The appeal is partly allowed.
- (ii) The amount of compensation is enhanced from Rs.6,64,800/- to Rs.11,16,720/-. Appellants are entitle to enhanced amount of Rs.5,53,130/- @ 7.5% from the date of filing claim petition till realization of amount.
- (iii) Appeal is disposed of in above terms.

**[S.G.DIGE]
JUDGE**

SGA/-