

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

FIRST APPEAL NO. 498 OF 2018

- | | | |
|---|----|------------|
| 1. Smt. Pushpabai Pandurang Mahajan
Age. 40 years, Occ. Household, | .. | Appellants |
| 2. Shri Jitendra Pandurang Mahajan
Age. 24 years, Occ. Education, | | |
| 3. Shri Pankaj Pandurang Mahajan
Age. 22 years, Occ. Education, | | |
| 4. Sau. Kavita Vinod Kokate
Age. 20 years, Occ. Household, | | |

All R/o. New Police Line, Muktainagar,
Tal. Muktainagar, Dist. Jalgaon.

Versus

- | | | |
|--|----|-------------|
| 1. The Inspector General of Police
Motor Dispatch, Maharashtra State, Pune.
Through the Superintendent of Police,
In front of New Bus Stand, Jalgaon. | .. | Respondents |
| 2. The Collector, Jalgaon,
The Collector Office Premises, Jalgaon. | | |

Mr.M.M. Bhokarika, Advocate for the appellants.
Mr.S.B. Pulkundwar, AGP for the respondent/State.

CORAM	:	KISHORE C. SANT, J.
DATED	:	12.10.2023

PC :-

01. Heard learned Advocates for the parties. This appeal is filed for enhancement of compensation awarded by the learned Member, Motor Accident Claims Tribunal, Jalgaon in MACP No.437 of 2007 dated 11.05.2012. The deceased was working as a Constable with respondent No.1. In an accident dated 30.06.2007, he received injuries and ultimately succumbed to the injuries. The claim was therefore filed by the present appellants. The learned Tribunal passed award for an amount of Rs.14,46,864/- including 'no fault liability'. The interest was directed to be paid @ 7.5% per annum from the date of registration of claim. This amount of compensation also includes Rs.5000/- towards funeral expenses and Rs.10,000/- towards loss of consortium. This appeal is filed only on the ground that the Court has not considered future prospects, agricultural income is not considered and the rate of interest is awarded only 7.5% p.a.

02. The learned AGP submits that the learned Member has rightly passed the award. The income is rightly calculated. There is no proof of income from the agricultural land. He thus submits that no interference is called for. As regards consortium and funeral expenses, he submits that it is

rightly granted at the prevailing rate at the time of accident and prays for dismissal of the appeal.

03. This Court finds that there is no error while calculating income and grant of compensation. Even about the funeral expenses and loss of consortium, this Court does not find scope to interfere with the impugned award. This Court only needs to consider the aspect of grant of future prospects, in view of judgment in the case of National Insurance Co. Ltd. Vs. Pranay Sethi and Ors., reported in MANU/SC/1366/2017. This Court finds that future prospects ought to have been considered at the rate of 25% of the income as on the date of the accident. As per the multiplier this Court finds that it is rightly applied. The only aspect that was not considered was about future prospects in view of the judgment of the Hon'ble Apex Court in the case of Sarala Verma & Ors. Vs. Delhi Transport Corporation, reported in MANU/SC/0606/2009. Looking to the above citations this Court finds that enhancement needs to be given by adding 25% of the salary after 1/3 deduction of the future prospectus.

04. At this stage learned AGP submits that the impugned award is of

11.05.2012, whereas the appeal was filed in the year 2016 and for that period no amount of interest be granted on the enhanced amount.

05. Considering above submission, this Court finds that the appeal can be partly allowed. The appeal is, therefore, allowed partly holding that the claimants/appellants will be entitled to compensation considering monthly income as Rs.8583/- + 25% of the said amount i.e. Rs.10729/-. This Court further finds that this appeal was filed after four years of delay. For the delayed period the appellant shall be entitled only to get interest @ 4% p.a.

06. Thus, the appeal is partly-allowed. The appellants shall be entitled for the enhanced compensation considering the monthly salary as Rs.10729/-. Rest of the award is maintained as it is. Decree be drawn up accordingly.

[KISHORE C. SANT, J.]