



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

FIRST APPEAL NO. 4821 OF 2017

1. Laxman Abhiman Gaikwad
[Name deleted as per Order Ex.26]

2. Nirmalabai Wd./o. Laxman Gaikwad,
Age: 50 years, Occu: Household,
R/o. Devali, Tq. Chalisgaon,
Dist. Jalgaon.

...Appellants
(Orig. Claimants)

Versus

1. Satish Gyandev Adhav,
Age: Major, Occu: Vehicle Owner & Driver,
R/o. Mehetre Vasti, Chikhali,
Tq. Haveli, Dist. Pune.

2. Shriram General Insurance Co.
Through its Manager,
R/o E-8, EPIP, RIICO, SITAPURA,
Jaipur 302022 (Rajasthan)

...Respondents
(Orig. Respondents)

...
Mr. Ujwal S. Patil, Advocate for Appellant
Mr. Abhijit G. Choudhari, Advocate for Respondent No.2

...
CORAM : NITIN B. SURYAWANSHI, J.
DATE : 09th SEPTEMBER, 2024

ORAL JUDGMENT :

1. Heard.

2. Admit. Taken up for final hearing by the consent of the parties.

3. By this appeal filed under Section 173 of the Motor Vehicles Act, appellant/claimant challenges judgment and award dated 19/05/2017, passed by the Motor Accident Claims Tribunal, Jalgaon, in M.A.C.P. No.163/2010.

4. On 12/03/2010, at about 11:30 a.m. Kiran Laxman Gaikwad was proceeding on motorcycle bearing No.MH-14-BP-6644. In front of Telco Company's gate, near Chikhali, one pick-up Jeep bearing No.MH-14-AZ-1766 came from opposite direction and gave forceful dash to the motorcycle of Kiran. Kiran died on the spot in the accident. Appellant/claimant, therefore, filed claim petition claiming compensation of Rs.9,00,000/- contending that Kiran was in service at Pioneer Enterprises and Training Services and was earning salary of Rs.5,000/- per month. Respondent No.2 Insurance Company denied the averments in the claim petition. After recording evidence, the claim was partly allowed with proportionate costs and owner of the offending vehicle and Insurance Company were jointly and severally held liable to pay compensation of Rs.3,72,000/- along with interest @ 7.5% per annum. Appellant /claimant is aggrieved by inadequate compensation awarded by the Tribunal.

5. Heard learned advocate for appellant/claimant and learned advocate for respondent No.2 Insurance Company. Though served non appears for respondent No.1 owner. Perused the record.

6. Tribunal on the basis of evidence placed on record by claimant, particularly Exhibit-51 which shows that deceased was being paid stipend of Rs.3,813/- plus house rent allowance of Rs.624/- per month, has assessed monthly income of deceased at

Rs.4,000/-. No fault can be found with the said assessment. Tribunal has then deducted 50% amount from the income of deceased towards his personal expenses. Tribunal, however, has committed error in applying multiplier of 13, considering the age of claimant. In view of ratio in ***National Insurance Co. Ltd. vs. Pranay Sethi and Others, 2017 (16) SCC 680***, age of deceased has to be taken into consideration while applying multiplier. Considering the fact that deceased was 22 years old at the time of accident, multiplier of 18 is applicable in the facts of the present case. Tribunal has further erred in not awarding future prospects to claimant. In terms of ***Pranay Sethi*** (supra), as the deceased was on fixed salary, 40% future prospects needs to be added in the income of deceased.

7. Learned advocate for respondent No.2 Insurance Company has argued that claimant is not entitled for the interest on future prospects in terms of ***Kalpna Madhu Gavali and Others Vs. Maharashtra State Road Transport Corporation, [2023 DGLS(Bom.) 3774]***. The said argument is not acceptable in view of decision of the Division Bench of this Court in ***Sunil Shankar Patil and Others Vs. Suhel Shaukat Shaikh and Others, [MANU/MH/ 2043/2024]***.

8. For the aforesaid reasons, claimant is entitled for following compensation,

Sr.No.	Particulars	Compensation
1	Annual Income (Rs.4000 x 12) + Future Prospects @ 40% i.e. Rs.19,200/-	Rs.67,200/-
2	1/2 Deduction towards personal expenses (Rs.67,200 - Rs.33,600)	Rs.33,600/-
3	Annual dependency multiplied by multiplier Rs.33,600/- x 18	Rs.6,04,800/-
4	Non-pecuniary losses:- Loss of consortium = Rs.50,000/- Funeral Expenses = Rs.10,000/-	Rs.60,000/-
	Total Compensation needs to be awarded	Rs.6,64,800/-
	Less Compensation awarded by Tribunal	Rs.3,72,000/-
	Total Enhanced Compensation	Rs.2,92,800/-

9. Hence, the following order:-

ORDER

- (I) First appeal is partly allowed with proportionate costs.
- (II) Impugned judgment and award dated 19/05/2017, passed by the Motor Accident Claims Tribunal, Jalgaon, in M.A.C.P. No.163/2010, is modified to the extent that appellant/claimant is held entitled for enhanced compensation of Rs.2,92,800/-. Rest of the award is maintained.
- (III) Insurance Company shall deposit the compensation amount along with interest accrued thereon in the Tribunal, within 12 weeks from the date of uploading of this order.

(NITIN B. SURYAWANSHI, J.)