

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1137 OF 2022

Kanta Shashikant Jadhav	]	
Age – 45 yrs., Occ – Household,	]	
All R/at Renuka Nagar, Maparwadi road,	]	
In front of Ugale Lawns, Sinnar, Nashik	]	Appellant
Versus		
1. Raghvendra Krushna Nayak	]	
Age – Major, Occ- Business (Vehicle Owner)	]	
R/at – Row house No.1, First Floor,	]	
G R Patil Nagar, 90, Shivaji Road,	]	
Kandiwali (W), Mumbai	]	
2. The Divisional Manager	]	
Universal Sompa General Insurance Co. Ltd.	]	
Madhav Plaza, Mumbai Naka, Nashik-422101	]	Respondents

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Mr. Sanjeev B. Deore a/w. Ms. Suchita J. Pawar i/b. Mr. Adityaraj T. Gaikwad , Advocate for the Appellant.
 Mr. Sarthak S. Diwan, Advocate for Respondent No.2.

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CORAM : SHIVKUMAR DIGE, J.
DATE : 23rd JANUARY, 2024.

JUDGMENT :

1. By way of this appeal, the appellant / claimant is seeking enhancement of compensation.
2. It is contention of learned counsel for the appellant that deceased was BSC student but the Tribunal has considered his monthly income at Rs.5,000/- per month on the basis of Minimum Wages Act which is not proper, hence requested to allow the appeal.
3. It is contention of learned counsel for the respondent No.2/

Insurance Company that while awarding compensation the Tribunal has considered all the aspects. Hence, no interference is required in it. Learned counsel further submitted that deceased was BSC student hence income considered by the Tribunal is proper.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Nashik (for short “**the Tribunal**”). Admittedly, at the time of accident deceased was taking education and he was BSC student. The Tribunal has considered monthly income of deceased at Rs.5,000/- on the basis of Minimum Wages Act. In my view, the provisions of Minimum Wages Act would not be applicable in the present case as deceased was taking education and he was BSC student. The monthly income of deceased was considered at Rs.5,000/- by the Tribunal is on lower side, hence, I am considering it at Rs.7,000/- per month.

Sr. No.	Particulars	Rs.	Compensation calculation
1	Notional income per month (7,000 X 12)	Rs.	84,000.00
2	Future project 40% as per national insurance judgment (Rs. 84,000 + Rs. 33,600)	Rs.	1,17,600.00
3	Multiplier Rs.1,17,600 X 18	Rs.	21,16, 800.00
4	Deduction of 50%	Rs.	10,58,400.00
5	Compensation granted by trial Court	Rs.	6,10,000.00
6	Enhanced compensation	Rs.	4,48,400.00

Considering the above calculations, the claimant is entitled for enhanced compensation of Rs.4,48,400/-.

5. In view of above, I pass following order :

ORDER

- (i) The appeal is allowed.
- (ii) The claimant is entitled for the compensation amount of Rs.4,48,400/- @ 7.5% interest from the date of filing claim petition till realisation of the amount.
- (iii) Insurance Company shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.
- (iv) The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

6. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)

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KILAJE

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