



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

FIRST APPEAL NO. 1666 OF 2024

Tulsabai Govinda Mutkule And Ors

VERSUS

Gajanan Pralhad Ingole And Anr

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Mr. V. B. Dhage, Advocate for Appellants

Mr. S. G. Munde, Advocate for Respondent No.1

Mr. A. S. Usmanpurkar, Advocate for Respondent No.2

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : 20th FEBRUARY, 2025

PER COURT :-

1. Heard learned Advocates appearing for the respective parties.
2. The original claimants take exception to the judgment and award dated 17.10.2023 passed by Motor Accident Claims Tribunal, Parbhani in Motor Accident Claim Petition No.46 of 2020.
3. The claimants are aggrieved by assessment of compensation.
4. Mr. Dhage, learned Advocate appearing for the appellant submits that the Tribunal has erroneously considered notional income of deceased @ Rs.6,000/- per

month, in fact, it could have been @ Rs.9,000/- per month. He further submit that the Tribunal has not added anything towards future prospects, although, age of the deceased is held to be in the group of 46-50 years.

5. Mr. Usmanpurkar, learned Advocate appearing for the respondent/insurance company, however, supported the award contending that the Tribunal has rightly considered notional income in absence of income proof and since the age of the deceased was about 50 years, nothing has been granted towards future prospects.

6. Having considered submissions advanced, it is apparent that although, claimants have pleaded that deceased was in agricultural and milk business, nothing is placed on record to prove the income and engagement in the milk business. Tribunal is therefore justified in considering further income @ Rs. 6,000/- per month.

7. So far as, grant of future prospects is concern, the Supreme Court of India in case of *National Insurance Company Limited Versus Pranay Sethi & Ors. (2017)16 SCC 680*, held that in case, if victim is between age group of 40 to 50 years, addition of 25% amount has to be made towards

future prospects. Although, Tribunal has observed in para no.52 of the judgment that the deceased was in the age group of 46 to 50 years, nothing is added towards future prospects. Such an error of Tribunal needs to be corrected and compensation needs to be re-adjusted by adding 25% amount towards future prospects of the deceased.

8. The Tribunal has added amount of Rs.15,000/- towards loss of love and affection, Rs. 30,000/- towards loss of consortium and Rs.10,000/- towards funeral expenses. It needs to be modified by granting Rs.40,000/- each towards loss of consortium to the claimants. As such, the claimants would be entitled for additional amount of Rs. 1,20,000/- towards loss of Consortium. The amount granted towards loss of estate and funeral expenses, for Rs. 25,000/- needs to be maintained.

9. In that view of the matter, compensation can be re-assessed as per chart given as under:

Sr. No.	Heads	Amount (Rs.)
1.	Annual loss of earning Rs. 6000 x 12 =	Rs. 72,000/-
2.	Addition of 25 % towards future prospects. 72000+18000 =	Rs. 90,000/-
3.	Deduction of 1/3rd towards personal	Rs. 30,000/-

	expenses Rs. 90,000 – 30,000 =	
4.	After applying multiplier of 13 to age of 50 years	Rs. 7,80,000/-
5.	Loss of consortium of 40000/- each to claimant no.	Rs. 1,20,000/-
6.	Funeral Expenses	Rs. 25000/-
	Total-	Rs. 9,25,000

10. In result, appeal is **partly allowed**. Claimants are held entitle for total compensation amount of Rs. 9,25,000/- alongwith interest @ 6% per annum from the date of filing the claim petition.

11. Compensation amount as deposited/paid as per award passed by the Tribunal shall be appropriated. Rest of the directions under award passed by the Tribunal shall *mutatis mutandis* be made applicable to modified award as per this order.

(S. G. CHAPALGAONKAR, J.)