



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 392 OF 2012

1. Smt. Vaishali Himmatrao Chathe,
Age about: 39 years; Occupation: Household,
R/o Wadod – Chathe, Taluka: Sillod,
Dist: Aurangabad
2. Kalpesh Himmatrao Chathe
Age about: 23 years, Occupation: Student,
R/o Wadod – Chathe, Taluka: Sillod,
Dist. Aurangabad
3. Rhishikesh Himmatrao Chathe
Age about: 14 years, Occupation: Student,
R/o Wadod – Chathe, Taluka: Sillod,
Dist. Aurangabad
Through its guardian claimant no. 1
4. Sandu Bandu Chathe
Age about: 69 years, Occupation: nil,
R/o Wadod – Chathe, Taluka: Sillod,
Dist. Aurangabad
5. Mhalsaai Sandu Chathe
Age about: 65 years, Occupation: nil,
R/o Wadod – Chathe, Taluka: Sillod,
Dist. Aurangabad

...Appellants

Versus

1. Manik @ Manaji Yeluba Shelke,
Age about: 48 years: Occupation: Driver,
R/o Wadala – Chathe, Taluka: Sillod,
Dist. Aurangabad
2. United India Insurance Company Ltd.
Through its Divisional Manager,
Osmanpura, Aurangabad

...Respondents

- Mr. H. A. Patankar, Advocate for the Appellants
- Mr. S. S. Rathi, Advocate for Respondent No. 3

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : DECEMBER 09, 2025
PRONOUNCED ON : DECEMBER 10, 2025

JUDGMENT :

1. Original Claimant hereby takes exception to judgment and award passed by MACT, Aurangabad in MACP No. 666/2008, primarily dissatisfied by quantum of compensation awarded.

2. Deceased Himmatrao was rider of the motorcycle bearing no. MH-20-Z-2554 along with pillion rider Somnath Shelke on Aurangabad to Wadud road. Truck bearing no. MH-20-AT-5720 coming from opposite direction, gave dash to the motorcycle and due to fatal injuries therein, Himmatrao succumbed and, therefore, claimants being his heirs, set up accident claim by invoking Section 166 of the Motor Vehicles Act against Respondent.

Above claim was contested and finally, by judgment and order dated 13.10.2011, learned Tribunal was pleased to grant compensation to the tune of Rs. 31,62,000/- with 7.5% p.a. rate of interest.

Dissatisfied by the non consideration of agricultural income and non consideration of 50% towards future prospects, instant appeal has been pressed into service.

3. Learned counsel for the appellants claimants submitted that, there is no dispute that deceased Himmatrao died in road traffic accident

and that there is challenge that offending truck was rash and negligent. He pointed out that, deceased who was 30 years of age, was working as teacher and earning salary to the tune of Rs. 27,008/- per month. That, he was also entitled for benefits of rise due to 6th pay commission. That, apart from above salary income, deceased was also looking after agricultural income and getting over Rs. 50,000/- p.a. from the same but the same has not been considered. He further pointed out that, learned Tribunal failed to consider and grant 50% under the head of future prospects. For above reasons, he urges to allow the Appeal.

4. Learned counsel for insurance company opposed and refuted above submissions and justified the findings and conclusion reached by Tribunal.

5. After considering above submissions, here primarily appeal is filed on the count of non consideration of 50% future prospects and non consideration of agricultural income. As regards to service of deceased as a teacher and earning salary is concerned, there is corroboration from evidence of headmaster. Said witness seems to have testified that deceased also entitled for benefits of 6th pay commission. Therefore, Tribunal has considered the same and held salary income of deceased to the tune of Rs. 24,427/- which is just and proper. However, in paragraph 24, learned Tribunal has refused to consider 50% increase by virtue of 6th pay

commission. Admittedly, from the computation made from paragraph 27, 29 & 34, it is seen that quantum for future income has not been considered and, therefore, Appellants succeeds to this extent.

6. As regards to second contention of failure to consider agriculture income is concerned, there is no distinct evidence. When deceased was full time teacher, it is difficult to accept that he also looked after agricultural activity and to grant quantum under said head. Therefore, only to the extent of non consideration of future prospects, impugned order is required to be interfered with. No fault can be found in the observations and findings of Tribunal as regards to agricultural income is concerned.

7. In view of the aforesaid discussion, claimants are entitled for following compensation:

Sr. No.	Heads	Amount (Rs.)
1.	Annual Income Rs. 2,80,000/- (+) 50% towards future prospects =Rs. 4,20,000/- (-) Rs.1,05,000 1/4th deduction towards personal expenses= Rs. 3,15,000 x 15 multiplier = Rs. 47,25,000/-	47,25,000/-
2.	Loss of consortium	5,000/-
3.	Loss of loving	5,000/-
4.	Funeral expenses	2,000/-
5.	Total compensation to be paid	Rs. 47,37,000/-
6.	Compensation awarded by Tribunal	Rs. 31,62,000/-
7.	Total enhanced compensation	Rs. 15,75,000/-

8. In the result, following order is passed:

O R D E R

- (i) Appeal is partly allowed with proportionate costs.
- (ii) Impugned judgment and award dated 31.10.2011 in Motor Accident Claim Petition No. 666/2008 passed by Motor Accident Claims Tribunal, Aurangabad is modified.
- (iii) Respondents to pay enhanced compensation of Rs. 47,37,000/- to claimants within 12 weeks from today along with interest @ 7.5% per annum from the date of registration of claim petition till its realization.
- (iv) Modified award be prepared accordingly.
- (v) Claimants to pay court fees on enhanced compensation as per rules.
- (vi) On deposit of the amount, appellants/claimants are permitted to withdraw the same.
- (viii) Rest of the judgment and award is maintained.

(ABHAY S. WAGHWASE, J.)

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