



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

FIRST APPEAL NO.1168 OF 2017

- 1) Vimal W/o Sahadev Jangle,
Age: 30 years, Occu. Household,
 - 2) Sakshi D/o Sahadev Jangle,
Age: 10 years, Occu. Education,
 - 3) Krishna S/o Sahadev Jangle,
Age: 5 years,
- R/o nos.2 and 3 being minor
Under guardianship of their real mother
i.e. claimant no.1
- 4) Kashibai W/o Dnyanoba Jangle,
Age: 57 Years, Occu. Household,
 - 5) Dnyanoba S/o Ganpati Jangle,
Age: 60 Years, Occu. Agriculture,

All R/o Bhend (Bk), Tq. Georai, Dist. Beed

...APPELLANTS
(Org. Claimants)

Versus

- 1) Suresh S/o Digambar Kontabe @ Kotambe,
Age: Major, Occu. Tractor Owner,
- 2) Rohit S/o Suresh Kotambe,
Age: Major, Occu. Driver,
Both R/o. Bag-Pimpalgaon, Tq. Georai,
Dist. Beed.
- 3) Royal Sunderam Alliance Insurance company Ltd.
Sunderam Towers, 45 & 46, White Road,
Chennai 600 014.

Summons also be served on, Saakar,
II Floor, Near Axix Bank, Adalat Road,
Aurangabad, Tq. And Dist. Aurangabad.

...RESPONDENTS
(Org. Respdt. No.1 to 3)

Shri. Mohit R. Deshmukh, Advocate for the Appellants
Shri. A. A. Puranik h/f. Shri. Avinash S. Deshpande, Advocate for
Respondent No.3

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CORAM : **NEERAJ P. DHOTE, J.**

RESERVED ON : 13.08.2025

PRONOUNCED ON : 04.09.2025

JUDGMENT :

. By the present Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'M.V. Act') the Original Claimants are seeking enhancement in the compensation awarded by the learned Motor Accident Claims Tribunal at Beed (hereinafter referred to as the 'Tribunal') in Motor Accident Claim Petition No.232/2014 (for short, 'Claim Petition') by the Judgment and Award dated 21.10.2016 granting compensation of Rs.8,13,500/- (inclusive 'No Fault Liability Compensation') with interest @ 9% Per Annum from the date of the Claim Petition.

2. The Appellant No.1 is the Widow, the Appellant Nos.2 and 3 are the Children and Appellant Nos. 4 and 5 are the Parents of Sahadev Dnyanoba Jangle (hereinafter called to as 'the Deceased'). They filed the above referred Claim Petition before the Tribunal that on 29.06.2014 when the Deceased was proceeding on the Motorcycle bearing No.MH-14-DW-2468 from Gadhi Phata towards village Bhend (Bk.) with the Appellant No.1, the Tractor bearing No. MH-23-T-4735 attached with the Trolley was coming from the opposite direction in the

rash and negligent manner and gave dash to their Motorcycle. In the accident, the Deceased suffered severe injuries to which he succumbed. The accident was reported to the Gevrai Police Station and Crime No. 119/2014 came to be registered against the Respondent No.2 – Driver of the offending Tractor.

3. According to the Appellants, the Deceased was 30 years old and earning Rs.2,00,000/- (Rs. Two Lakh) Per Annum by working as the Contactor, Driver and Agriculturist. They were depending on the Deceased and claimed compensation of Rs.20,00,000/- (Rs. Twenty Lakh).

4. The Claim Petition was contested by the Respondents by filing their respective Written-statements. They denied the case of the Appellants. They denied the age and income of the Deceased and urged for dismissal of the Claim Petition. The Appellants led their evidence. No evidence was led by the Respondents. After hearing all the sides and considering the evidence available on record, the learned Tribunal passed the above referred Judgment and Award.

5. Heard the learned Advocate for the Appellants, learned Advocate for the Respondent Nos.1 and 2 and learned Advocate for the Respondent No. 3 - Insurance Company. Persued the record.

Monthly income of the Deceased :-

6. It is submitted by the learned Advocate for the Appellants that though the Appellant No.1 examined herself as the Witness and deposed in support of the Claim Petition, the learned Tribunal considered the monthly income of the Deceased at Rs.4,500/- (Rs. Four Thousand Five Hundred) which was on lower side. He submitted that the Deceased was working as the Contractor, Driver and Agriculturist and the learned Tribunal ought to have considered the monthly income of the Deceased between Rs.6,500/- (Rs. Six Thousand Five Hundred) to Rs.7,000/- (Rs. Seven Thousand). He submitted that, there is loss of supervision of the agricultural field. In support of his submissions, he relied on the Judgments in *Syed Sadiq and Others Vs. Divisional Manager, United India Insurance Company Limited, (2014) 2 SCC 735* and *Maharashtra State Road Transport Corporation Vs. Dilip S/o. Popatrao Kate and Others, 2019 (2) MhLJ 315*.

7. It is submitted by learned Advocate for the Insurance Company that, the accident was of the year 2014 and no evidence was brought on record by the Appellants to prove the monthly income of the Deceased and therefore, the learned Tribunal has rightly considered the notional income as Rs.4,500/- (Rs. Four Thousand Five Hundred) which is appropriate and do not call for any interference by this Court.

8. Perused the above referred Judgments cited by learned Advocate

for the Appellants. In *Syed Sadiq (supra)* the accident occurred on 14.02.2008. The Appellants therein had suffered grievous injuries. The Appellant therein was earning his livelihood by doing vegetable vending work and could not produce document to establish his loss of income. It was held that, being a vegetable vendor he was capable of earning Rs.6,500/- (Rs.Six Thousand Five Hundred) Per Month. In *Maharashtra State Road Transport Corporation (supra)*, the accident occurred on 27.12.2010. The Deceased therein was an Agriculturist and to prove the income of the Deceased, sugarcane bills issued in the name of the Deceased were brought on record. This Court considered the loss of supervision of the agricultural land and quantified the amount @ Rs.200/- (Rs. Two Hundred) per day and monthly income as Rs.6,000/- (Rs. Six Thousand).

9. Coming to the case at hand, according to the Appellants, the Deceased was earning by cultivating three (3) acres irrigated agricultural land, by doing the work as the Contractor and Driving. The Appellant No.1 - Widow of the Deceased in her Cross-examination admitted that while her Deceased Husband was alive, the agriculture affairs were looked after by her elder Brother-in-law. From this, it is clear that there is no question of supervision loss due to the death of the Deceased in respect of the agricultural field as contended by the learned Advocate for the Appellants. The 7/12 extract at Exh.44 is in the name of the Appellant No.1 – Widow of the Deceased. Except bare words of

the Appellants, there is no iota of evidence in respect of earning of the Deceased. The learned Tribunal has recorded the finding that the Appellants have not adduced cogent and dependable evidence to prove the income of the Deceased and therefore, considered the monthly income of the Deceased as Rs.4,500/- (Rs. Four Thousand Five Hundred). The copy of the Driving Licence of the Deceased at Exh.42 shows that it was for the Motorcycle with gear and light motor vehicle (non-transport). Therefore, the contention that the Deceased was also working by driving the vehicle is difficult to accept. Thus, in the facts and circumstances of the case, no fault can be found with the monthly income of the Deceased considered by the learned Tribunal.

10. It is submitted by learned Advocate for the Appellants that in view of the Judgment of the Hon'ble Supreme Court of India in *National Insurance Company Limited Vs. Pranay Sethi and Others*, (2017) 16 SCC 680, 40% addition will have to be made to the income of the Deceased as he was below 40 years of age. There is no dispute on this aspect. In the light of the law laid down in the said Judgment of *Pranay Sethi* (supra), 40% addition to the income of the Deceased will have to be considered.

11. It is submitted by the learned Advocate for the Appellants that the compensation towards Consortium, Funeral Expenses and Loss of Estate are to be calculated as per the above referred Judgment in *Pranay*

Sethi (supra) and *New India Assurance Company Limited Vs. Somwati and Others*, (2020) 9 SC 644. Again there is no dispute on the legal position in that regard. The Appellants being the Widow, Children and the Parents of the Deceased would be entitled for Loss of Consortium under the heads Spousal Consortium, Parental Consortium and Filial, respectively, @ Rs.40,000/- (Rs. Forty Thousand) each. They would be entitled for Rs.15,000/- (Rs. Fifteen Thousand) each, for Loss of Estate and Funeral Expenses.

12. In light of the above, the compensation amount is recalculated as under :

Particulars	Amount
Notional Monthly income	Rs.4,500/-
Addition of 40% towards Loss of Dependency	Rs.1,800/-
Total Monthly Income	Rs. 4500/- + Rs. 1800/- = Rs. 6300/-
1/4th deduction towards personal expenditure	Rs.6300/- ÷ 4 = Rs. 1575/-
Net Monthly income after 1/4th deduction	Rs.6300/- - Rs.1575/- = Rs.4725/-
Net Yearly income	Rs.4725/- (Net monthly income) x 12 months = Rs.56,700/-
Multiplier of 17	Rs.56,700/- (Yearly income) x 17 = Rs.9,63,900/-
Towards Loss of Consortium (Rs.40,000/- x 5 dependents)	Rs.2,00,000/-
Towards Loss of Estate	Rs.15,000/-
Towards Funeral Expenses	Rs.15,000/-
Total Compensation :	Rs.11,93,900/-

13. In light of the above discussion, following order is passed.

ORDER

- (i) The Appeal is partly allowed.
- (ii) The compensation awarded by the learned Tribunal is modified to Rs.11,93,900/- (Rs. Eleven Lakh Ninety Three Thousand Nine Hundred) with same ratio of interest.
- (iii) The amount of enhanced compensation which comes to Rs.3,80,400/- (Rs. Three lakh Eighty Thousand Four Hundred) be equally divided / apportioned amongst the Appellant Nos.1 to 3 being the Widow and the Children of the Deceased and the same be kept in a Fixed Deposit in any Nationalized Bank in their name for a period of One (1) year which may be further renewed as desired by the Appellant No.1 – Widow and in case of the Appellant Nos. 2 and 3 – Children till they attain majority. In case, they have attained majority, the same be renewed as desired by them.
- (iv) Award be drawn up accordingly.

[NEERAJ P. DHOTE]
JUDGE

GGP