2025:BHC-AUG:9185

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 761 OF 2010

1. Anuradha @ Rakhi Ashok Dhabekar
Age : 33 Years, Occu. : Household,
R/o Dudhgaon, Tq. and Dist. Osmanabad.

2. Udayraje Ashok Dhabekar,
Age : 3 years, Minor u/g of his
mother appellant No. 1.

3. Kundlik Ambadas Dhabekar
Since deceased through L.Rs.
Appellant Nos. 1 and 2.

4. Sarubai W/o Kundlik Dhabekar,
Since deceased through L.Rs.
Appellant Nos. 1 and 2. .. Appellants

Versus

1. Dadaso Krishna Galave,
Age : Major, Occu. : Business,
R/o Patane Plot, Near Ram
Mandir, Sangli, Dist. Sangli.

2. National Insurance Co. Ltd.,
Through the Divisional Manager,
National Insurance Co. Ltd.,
Shubhrai Towers, Datta Chowk,
Solapur, Dist. Solapur. .. Respondents

Shri P. S. Chavan, Advocate for the Appellants.
Shri Shailesh S. Chapalgaonkar, Advocate for the Respondent No. 2.

CORAM : SHAILESH P. BRAHME, J.

CLOSED FOR ORDERS ON : 21.03.2025
ORDER PRONOUNCED ON : 28.03.2025

JUDGMENT :

. Heard both sides.

2. The appellants/original claimants are challenging judgment and award dated 08.12.2009 passed by the learned Member, Motor Accident Claims Tribunal, Osmanabad in M. A. C. P. NO. 228 of 2007, awarding compensation of Rs. 1,75,000/- recoverable from the respondents with interest at the rate of 7.5% per annum from the date of filing of the petition i. e. 16.08.2007,

3. The sole earning member in the family namely Ashok, husband of the appellant No. 1 met with an accident on 25.05.2007, when he was 36 years old. He claims to have been working as a supervisor with Terna Sugar Factory with salary of Rs. 6,200/- per month. He claims to have additional income from agricultural land of 12 acres to the tune of Rs. 1,00,000/- per annum. Appellants claimed compensation of Rs. 7,00,000/-. The claim is contested by the respondents on various grounds.

4. The Tribunal disbelieved that the deceased was serving as supervisor for want of evidence. But the agricultural income of

Rs. 15,000/- per annum was accepted and accordingly loss of future income was calculated. The multiplier of 16 was applied and 1/3 amount of income was deducted for personal expenses. Under non pecuniary head an amount of Rs. 15,000/- was awarded. Thus appellants were awarded Rs. 1,75,000/-.

5. Learned counsel Mr. Chavan appearing for the appellants would submit that appellants are entitled to 40% for the future prospectus and Rs. 8,000/- per month as loss of income considering minimum wages policy. He would submit that considering dependency, for personal expenses 1/4 amount is deductible, instead of 1/3. For non pecuniary heads, the appellants are entitled to Rs. 1,50,000/-. He seeks to rely on the following judgments of the Supreme Court and this Court.

I. National Insurance Co. Ltd. Vs. Pranay Sethi and others reported in AIR 2017 SC 5157.

II. Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another reported in AIR 2009 SC 3104.

III. Dharampal and others Vs. Uttar Pradesh State Road Transport Corporation reported in AIR 2008 SC 2312.

IV. Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others reported in 2019(4) Mh.L.J. 1.

V. Gangubai Dashrath Varade Vs. Dayanand Dhondiram Sonar reported in AIROnline 2023 BOM 1058.

6. Learned counsel for the contesting respondent/insurance

company Mr. Shailesh Chapalgaonkar would vehemently oppose the submissions of the appellants. He would submit that no evidence was adduced to show that deceased was earning to the tune of Rs. 8,000/- per month from agricultural work. He would submit that just and reasonable compensation has been awarded by the Tribunal. It is submitted that all aspects of the matter have been dealt with and plausible view has been taken by the Tribunal.

7. Having considered rival submissions of the parties, the dispute is restricted to the quantum of compensation. Both the counsel appearing for the contesting parties have restricted their submissions to the quantum of compensation. This Court, therefore, need not consider that the appellants had source from service as supervisor with the sugar factory.

8. Undisputedly, the notification dated 31.05.2010 issued by the Central Government prescribes minimum wages of Rs. 8,000/- per month. The appellants failed to prove income from the agricultural work and, therefore, notionally income of Rs. 15,000/- per annum from the agricultural income was considered by the Tribunal. In view of ratio laid down by the Supreme Court vide **order dated 07.02.2025 in the matters of Jitendra Vs. Sadiya in Civil Appeal No. 2209 of 2025** and Gurpreet Kaur and others Vs. United India Insurance Company Ltd. and others reported in *2022 SC Online SC 1778*, Rs. 8,000/- per month should be considered as income.

9. Learned Tribunal did not award anything towards future prospects. In view of judgment of the Supreme Court in the matter of <u>**National Insurance Co. Ltd. Vs. Pranay Sethi and others**</u> (supra), 40% of the established income of the deceased shall be considered for future prospects. Similarly the Tribunal deducted 1/3 of the income of the deceased towards his personal expenses, which is incorrect. The appellants who are four in number are the dependents and, therefore, it is permissible to deduct 1/4th of the income towards personal expenses. For non pecuniary loss amount of only Rs. 15,000/- was awarded, which is grossly inadequate. The appellants are entitled to Rs. 1,50,000/- under the said head in view of law laid down by the Supreme Court in the matter of <u>**Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**</u> (supra).

10. It is contended by the learned counsel for the appellants that appellants are entitled to interest at the rate of 12% per annum. Learned counsel for the respondent/Insurance Company submits that bank's rate of interest is not to the tune of 12% per annum. I find it appropriate to award interest at the rate of 7% per annum on the enhanced compensation. In that view of the matter, the appellants are entitled to compensation in following manner.

Sr. No.	Compensation Head	Amount
01.	Loss of annual earning (8,000/- X 12)	96,000/-
02.	Add 40% future prospects (96,000/- + 38,400)	1,34,400/-
03.	Deduction of 1/4th towards personal expenses (1,34,400/- - 33,600/-)	1,00,800/-
04.	Multiplier of 16 (1,00,800/- x 16)	16,12,800/-
05.	Non pecuniary loss	1,50,000/-
06.	Total compensation to be paid	17,62,800/-
07.	Minus Compensation already paid	1,75,000/-
	Enhancement of compensation	**15,87,800/-**

11. For the reasons recorded above, the appeal deserves to be allowed and the award passed by the Tribunal shall be substituted by following order :

O R D E R

A. The first appeal is partly allowed.

B. The respondent Nos. 1 and 2 jointly and severally pay an amount of Rs. 15,87,800/- (Rs. Fifteen Lakhs Eighty Seven thousands Eight hundred only) to the appellants/claimants along with interest at the rate of 7% per annum from the date of filing of petition till realization of entire amount of compensation.

C. On depositing the amount by the respondents, same shall be disbursed to the appellants/claimants.

D. The appellants/claimants shall pay deficit court fees, if any.

E. Award be drawn up accordingly.

[SHAILESH P. BRAHME J.]

bsb/March 25