IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1369 OF 2016

Divisional Controller
Maharashtra State Road
Transport Corporation
Division Office, At Aurangabad

…..**APPELLANT**
(Original Respondent no.1)

VERSUS

1. Govind s/o Shivram Wagh,
Age 45 years, Occu. Nil,
R/o Talni, Tq. Silod,
District – Aurangabad

2. Janabai w/o Shivram Wagh,
Age 41 yrs Occu. Nil,
R/o Talni, Tq. Silod,
District – Aurangabad

3. Ashwini d/o Govind Wagh,
Age 18 yrs, Occu. Student
R/o Talni, Tq. Silod,
District – Aurangabad

…..**RESPONDENT NOS.1 TO 3**
(Original claimants)

4. Shaikh Akheel s/o Shaikh Lal
Age Major, Occu. Driver,
R/o Bhatana, Tq. Vaijapur,
District – Aurangabad.

…..**RESPONDENT NO.4**
(Original respondent no.2)

WITH

CROSS OBJECTION NO.200 OF 2025

1. Govind s/o Shivram Wagh,
   Age 45 years, Occu. Nil,
   R/o Talni, Tq. Silod,
   District – Aurangabad

2. Janabai w/o Shivram Wagh,
   Age 41 yrs Occu. Nil,
   R/o Talni, Tq. Silod,
   District – Aurangabad

3. Ashwini d/o Govind Wagh,
   Age 18 yrs, Occu. Student
   R/o Talni, Tq. Silod,
   District – Aurangabad

…..**OBJECTION PETITIONERS**
(Original claimants)

VERSUS

1. Divisional Controller
   Maharashtra State Road Transport Corporation
   Opposite to Employment Office, Aurangabad
   Taluka & District Aurangabad

2. Shaikh Akheel S/o Shaikh Lal
   Age: Major Occu: Driver
   R/o Bhatana Tq: Vaijapur,
   District: Aurangabad

…..**RESPONDENTS**
(Resp. No.1-Appellant
Resp. No.2-Original respondent no.2)

Ms. Ranjana D. Reddy, Advocate for the appellants in First Appeal (MSRTC)
Mr. M. R. Deshmukh, Advocate for the respondent nos.1 to 3 in First Appeal (Claimants)

CORAM : AJIT B. KADETHANKAR, J.
RESERVED ON : 16TH OCTOBER, 2025
PRONOUNCED ON : 29TH OCTOBER, 2025

JUDGMENT :- (Per Court)

. Feeling aggrieved by the judgment and award dated 31.12.2015, passed by the learned Member, Motor Accident Claims Tribunal, Aurangabad in Motor Accident Claim Petition No.241 of 2015, the original respondent no.1/M.S.R.T.C. is in appeal under Section 173 of the Motor Vehicles Act, 1988.

So also, feeling dissatisfied with the quantum of compensation, the claimants in the claim petition are before this Court seeking enhancement in the compensation vide Cross Objection No.200 of 2025.

Since the grievance in both the proceedings is common i.e. “quantum : either excess or deficit” respectively, both the matters are heard together and decided vide this common judgment and order.

Parties are referred to as per their “factual status” for the sake of convenience.

<u>2. Moot points for consideration</u>:

(i) Applicability of future prospects to deemed income;

(ii) Interest of future prospect;

(iii) Ascertaining income of a student of professional course;

(iv) Method to assess age of the deceased and appreciation of evidence to that effect.

<u>3. Facts in brief:</u>

3.1 One Ganesh Wagh was proceeding on his bike on 25.02.2015 on Sillod-Aurangabad road at bout 07:00 p.m. A passenger bus owned by M.S.R.T.C. driven by respondent no.4 in the First Appeal dashed the said bike, to which biker namely Ganesh Wagh succumbed. Deceased Ganesh was a meritorious student prosecuting his final year studies in the course of M.B.B.S. at Government Medical College, Aurangabad. The claimants lodged the claim for grant of compensation under Section 166 of the Motor Vehicles Act, 1988.

3.2 Upon hearing both the parties, the learned Tribunal held that the Bus driver was responsible to cause the accident. As such, full liability of accident was imposed on the bus driver.

3.3 So far as quantum is concern, the claimants examined one Dr. Umeshkumar Shahane (CW-2) at Exhibit-31 to prove the probable income of the deceased which he could earn soon after clearing M.B.B.S. course. Dr. Shahane had been classmate of the deceased Ganesh and was earning Rs.56,540/- per month salary as Medical Officer in ESIS Hospital. Appointment order and salary slip of Dr. Shahane was proved.

3.4 Placing reliance on the evidence tendered by Dr. Shahane, the claimants averred that income of deceased Ganesh be held atleast @ Rs.56,000/- per month.

3.5 It seems that the MSRTC opposed such argument and submitted that income of deceased Ganesh Wagh cannot be assumed so high considering the state of uncertainty in the life of a person.

3.6 Upon hearing both the parties, the learned Tribunal formed opinion that merely because Dr. Shahane was classmate of deceased Ganesh and was getting salary of Rs.56,540/- per month, it cannot be said that deceased Ganesh would also have earned the same job and same salary. Learned Member of the Tribunal opined that it would be fair and reasonable if income of the deceased could be held as Rs.35,000/- per month.

3.7 As such, holding income of the deceased @Rs.35,000/- per month, granting 50% of it towards 'Future Prospects' the annual income of the deceased was held @Rs.6,30,000/-. 50 % of the income was deducted towards personal expenses, as the deceased was a bachelor. Although, the Aadhaar Card and SSC/HSC certificate of the deceased Ganesh were on record showing his age as 24, the learned Tribunal held his age at 27 years referring to the Post Mortem Report and Inquest Panchnama. Hence, applying multiplier of M-17, the learned Tribunal fixed the loss of dependency @Rs.53,55,000/-. The learned Tribunal added Rs.1,00,000/- towards loss of love and affection and conventional expenses Rs.25,000/- towards funeral expenses.

As such, the final compensation arrived @Rs.54,80,000/- inclusive of compensation payable under No Fault Liability.

<u>4. Moot points raised by the parties</u>:

4.1 MSRTC would object that Ld. Tribunal ought not to have added the component of 'Future Prospects' in the income of the deceased as his income was held on notional basis.

4.2 MSRTC also objects that interest could not have been applied on the 'Future Prospects'.

4.3 Claimants raised grievance that Ld. Tribunal erred in holding income of the deceased on lower side. That, in view of the evidence tendered, Ganesh's income ought to have been held atleast @ Rs.56,000/- p.m.

4.4 Claimants also object that Ld. Tribunal applied multiplier M-17 instead of M-18 without considering the evidence on record showing correct age of the deceased.

Both the parties while justifying their respective objections, also countered each-other's too.

5. **Points framed:**

On the basis of the objections raised by the respective sides, I frame following points for consideration:

5.1	Whether Ld. Tribunal is justified in adding Future Prospects while computing the Award?	Yes
5.2	Whether Ld. Tribunal is justified in applying interest on Future Prospects?	Yes
5.3	Whether Ld. Tribunal is justified in applying multiplier of M-17 instead of M-18?	No.
5.4	Whether income of the deceased needs to be held on higher side, and whether the compensation has to be enhanced?	Yes
5.5	What order?	As per final order.

Now I shall deal on each point of objection recording the debate advanced by both the Ld.Counsels for the respective parties. The parties have taken me to the record and proceeding to convince their arguments.

Discussion & findings

5.1 Addition of Future Prospects:

5.1.1. Smt. Ranjana Reddy, learned Advocate for the MSRTC has strong objection to the application of 'Future Prospects' in the present case. She would further submit that the deceased falls from the category of non earning persons who had no established income.

She would refer to the findings rendered by the Hon'ble Supreme Court in the case of ***National Insurance Company Vs. Pranay Sethi and Others***, reported in ***2017 SCC Online SC 12710*** at its paragraph nos.59.3 and 59.4, which are reproduced as follows:

> *59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*
>
> *59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.*

5.1.2 Smt. Reddy, learned Advocate was at pains to convince me that in view of the clear wording in ***Pranay Sethi's*** case (supra), the concept of Future Prospects could be applicable only in respect of the persons who have established income.

5.1.3 She would submit that as the deceased was not having any income, and as the learned Tribunal has held his income on notional basis. Future Prospects could not have been applied in this case. She would refer one judgment rendered by High Court of Allahabad, reported in ***LAWS(All-2023-5-223)***. However, upon appraising her that the facts in the cited case and the present one are absolutely distinguishable, Smt. Reddy, would fairly submit that although she has cited this judgment, it may not be useful as facts in both the cases are different. With this argument, Smt. Reddy, learned Advocate would submit that the Future Prospects ought not to have applied in this case.

5.1.4 Mr. Mohit Deshmukh learned Advocate for the claimants supports the finding of the learned Tribunal by which the learned Tribunal has added the component of Future Prospects while computing the compensation. He objects that in 'Pranay Sethi' case (supra) the Hon. Supreme Court held only the persons whose income is established, to be entitled for Future Prospects. Mr. Deshmukh would refer to the Paragraph No.55 in 'Pranay Sethi's judgment which is reproduced as follows:-

“55. Section 168 of the Act deals with the concept of “Just compensation” and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. The conception of “just compensation” has to be viewed through the prism of fairness, reasonableness and non-violation of the principle of equitability. In a case of death, the legal heirs of the claimants cannot expect a windfall. Simultaneously, the compensation granted cannot be an apology for compensation. It cannot be a pittance. Though the discretion vested in the tribunal is quite wide, yet it is obligatory on the part of the tribunal to be guided by the expression, that is, “just compensation”. The determination has to be on the foundation of evidence brought on record as regards the age and income of the deceased and thereafter the apposite multiplier to be applied. The formula relating to multiplier has been clearly stated in Sarla Verma and it has been approved in Reshma Kumari. The age and income, as stated earlier, have to be established by adducing evidence. The tribunal and the courts have to bear in mind that the basic principle lies in pragmatic computation which is in proximity to reality. It is a well-accepted norm that money cannot substitute a life lost but an effort has to be made for grant of just compensation having uniformity of approach. There has to be a balance between the two extremes, that is, a windfall and the pittance, a bonanza and the modicum. In such an adjudication, the duty of the tribunal and the courts is difficult and hence, an endeavor has been made by this Court for standardization

> *which in its ambit includes addition of future prospects on the proven income at present. As far as future prospects are concerned, there has been standardization keeping in view the principle of certainty, stability and consistency. We approve the principle of "standardization" so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age"*

With this, Mr. Mohit Deshmukh would submit that it would be inappropriate to discriminate different classes of persons while applying the Future Prospects component. Mr. Deshmukh would however fairly submit that the correct future prospects would be 40%, but not 50% as the income of the deceased Ganesh Wagh was not to be considered as a fixed salaried income.

5.1.5 My findings:

(a) Future Prospects is not any allowance nor any add-on benefit depending upon any qualification. Indeed its a principles of 'standardization' in view of Certainty, Stability and Consistency. Application of Future Prospects as introduced by the Hon. Supreme Court in the case of 'Pranay Sethi' can not be confined only in respect of particular class of persons unlike argued by the MSRTC.

The logic and analogy applied in 'Pranay Sethi' case is not at all narrow to restrict benefit of Future Prospects to a particular class of persons. In 'Pranay Sethi' the Hon. Supreme Court has clarified that "*The established income means the income minus the tax component" (emph.).*

I don't accept the argument advanced by Smt. Reddy that 'persons with established income' is a privileged category entitle for the benefit of Future Prospects component.

(b) A profitable reference could be made to the view expressed by the Hon. Supreme Court in the case of ***Kavita Nagar and Others Vs. The Oriental Insurance Company Ltd (Civil Appeal No. 10632 of 2024)*** Their Lordships have held that there cannot be discrimination in the categories of the claimants to deny or apply the component of Future Prospects. The relevant paragraphs in the case of ***Kavita Nagar*** are reproduced as follows:

> *14. The need to factor in future prospects when determining compensation becomes even clearer and more pressing when considering the basic human drive to sustain and improve one's life. A self-employed individual, just like someone on a fixed salary,strives to increase their income to meet growing expenses and to adapt to changing circumstances. This is particularly important*

> *when considering the purchasing power and quality of life, which tend to increase as a person's career progresses. The notion that a self-employed person's income will remain static is flawed, as they, too, make efforts to raise their fees or charges to keep pace with inflation and market demands. For instance, someone working in a government role or another fixed-income job might receive annual salary adjustments or benefits,reflecting a growth trajectory over time. Similarly, a self-employed professional—such as a doctor, lawyer,or small business owner—will often increase fees or expand services to keep pace with rising costs. Recognizing these future prospects ensures a fair and just compensation by aligning with real-world economic dynamics, which Section 168 of the Motor Vehicles Act,1988 seeks to uphold.*
>
> *15. This drive to improve one's income is universal,regardless of the employment status, and should be reflected in the compensation calculations for motor accident claims. As the precedent in the quoted judgment suggests, it is unjust to disregard future prospects solely based on the perceived static nature of the income. Instead, a degree-test should be applied, accounting for factors like age, career growth, and economic conditions, ensuring fair compensation that reflects the individual's true earning potential over time.*

Thus, it is no more in *res integra* that the Future Prospects are to be given in every death case irrespective of the category of the claimant i.e. earning, non earning, established income, non established income, etc.

(c) In ***Kirti and Another Vs Oriental Insurance Company*** reported at ***(2021) 2 SCC 166***, a Three Judge Bench of the Hon'ble Supreme Court considered the issue of entitlement of future prospects in a claim on account of the death of a homemaker who is a non earning member. It is pertinent to note that applying the principles laid down by the Constitution Bench in Pranay Sethi (supra), the Apex Court applied future prospects at 40%.

(d) As such, I hold the learned Tribunal is absolutely justified in adding Future Prospects while computing the compensation. Rather, exclusion to add Future Prospects would result in grave miscarriage of justice. However considering that the compensation is being granted on deemed income of the deceased, the Future Prospects would be @ 40%, but not 50% as correctly pointed out by Mr. Mohit Deshmukh, ld. Advocate for the claimants.

5.2 Interest of Future Prospects:-

5.2.1 Smt. Reddy Ld. Advocate for the MSRTC objects that interest on the Future Prospects cannot be granted. She would submit that the Future Prospects itself is such income which is not in existence nor ever existed, interest may not be applied over the Future Prospects.

5.2.2 Mr. Mohit Deshmukh Ld. Counsel representing the Claimants would however submit that it has been clarified by the Hon. Supreme Court that the Future Prospects has been held as part and parcel of the income of the deceased on the principles of Standardization. As such, interest must be applied even on the Future Prospects.

5.2.3 My findings:

(a) Once the Future Prospects is to be added in the income of the deceased, the interest would equally be applicable on such income. An objection to the application of interest on Future Prospects won't survive in the light of the view taken by the Hon. Supreme court in the case of ***Oriental Insurance Company Ltd. Vs. Niru @ Niharika and Ors.***, [2025 INSC 822] wherein the Hon'ble Supreme Court has directed that the entire award amount as to be paid with interest.

The entire award necessarily meant the component of Future Prospects too. As such, the objection of the MSRTC on the point of interest on Future Prospects also cannot be sustained.

As such I find that compensation granted for the component of Future Prospects would also carry interest. The Ld. Tribunal has not committed any error while granting interest even on the future prospects.

5.3 Multiplier:

Both the parties have different objections on the point of 'Multiplier' which are dealt as follows.

5.3.1 Smt. Reddy, learned Advocate submits that multiplier has to be corresponding to the age of the parents, but not corresponding to the age of the deceased. She would submit that the age of Claimants or Deceased, whichever higher has to be considered for fixing the multiplier.

5.3.2 To answer this objection, Mr. Mohit Deshmukh, learned Advocate placed reliance upon a judgment and order rendered by the Hon'ble Supreme Court in the case of ***Haresh Shantilal Avlani and Anr. Vs. New India Assurance Company***

Ltd., reported in ***(2024) 13 SCC 452***, wherein the Hon'ble Supreme Court approved the age of the deceased to fix the multiplier in the case of death of a bachelor. A profitable reference to the paragraph no.5 of the said judgment can be made, which is reproduced as follows:

> *"5. We are, therefore, of the opinion that it is the age of the deceased which ought to be taken into consideration and not the age of the dependants for arriving at the multiplier and the High Court has erred in returning findings to the effect that the age of dependents of the deceased ought to be the relevant consideration for arriving at the choice of the multiplier."*

As such, I agree with the proposition that its the age of the deceased that is to be considered for fixing the multiplier even in the case of a Bachelor. As such the objection by the MSRTC does not stand well in view of the prevailing law.

5.3.3 On the other hand, Mr. Mohit Deshmukh, learned Advocate for claimants would submit that while copies of the SSC certificate and Aadhaar Card pertaining to the deceased Ganesh Wagh was placed on record by the claimants vide a list of document which was exhibited, the learned Tribunal ought not to have adopted extremely mechanical approach to rely upon the Inquest Panchnama and the Post Mortem report.

5.3.4 Mr. Deshmukh, learned Advocate would submit that it was incumbent on the part of the learned Tribunal to examine the documents on record and to fix appropriate multiplier corresponding to the age of the deceased. He would submit that while documents showing exact age of the deceased are on record and while the ld. Tribunal could have called upon the concern parties for further explanation, if wanted, the learned Tribunal must not to have relied upon the Inquest Panchnama and Post Mortem report.

5.3.5 Mr. Deshmukh would submit that considering the date of birth of the deceased appearing on both these documents i.e. 04.05.1990, Ganesh Wagh's age was 24 years 09 month 21 days at the time of his death. Mr. Deshmukh, learned Advocate would further submit that, had the learned Tribunal held the age as '24 instead of 27', the correct multiplier would be M-18, but not M-17.

5.3.6 Smt. Ranjana Reddy would find no reason to deny that the documents i.e. SSC certificate and the Aadhaar Card of deceased Ganesh Wagh were part of record before the learned Tribunal.

She would fairly submit that there may not be reason to disbelieve those documents considering its nature, yet she adds that the learned Tribunal was justified in not referring such documents as they were not proved in due process.

5.3.7 My findings:-

(a) With able assistance of both the Advocates, I have gone through the Record and Proceeding of the case in hand. I find that a list of document has been filed under the signature of the claimant no.1 and his Advocate on 13.04.2015, which consists acknowledgment seal and signature of the Superintendent Judicial (Civil) District Court, Aurangabad. The list contains 13 documents including First Information Report, Inquest panchnama, Post Mortem Report, Spot Panchnama, S.T. bus papers, License of S.T. bus driver, AA form, original HSC certificate, SSC certificate, Original MBBS 1st year Mark Memo, Original MBBS 2nd year Mark Memo, original MBBS 3rd year Mark Memo and Aadhaar Card of the deceased. It seems that the list of documents is exhibited, the documents enlisted with the list are given pagination. The Certified copies are given Exhibit number.

Original HSC certificate and original MBBS 1st to 3rd year markmemos are given Exhibit numbers. The rest documents are not given Exhibit numbers, however there is also no endorsement U/O XIII Rule 3 & 6 of Civil Procedure Code on such other documents.

(b) It reveals that the ld. Tribunal relied upon Inquest Panchnama and Post Mortem report which were filed together with the same documents under the same list of documents. Pertinent to note, the Inquest Panchanama contain age of the deceased as 'approximately 27 (**अंदाजे २७ वर्ष**) However, it didn't consider the other documents produced by the Claimants to record the age of the deceased i.e. SSC/HSC certificates or the Aadhaar Card.

There could be no debate that its for the plaintiff/claimant to comply Order XIII Rule 1 of the Civil Procedure Code. However, agreeing that some documents were not relied because those were in the form of copies, instead of adopting conventional approach to discard those vital documents at threshold, 'it would have been just & appropriate to call upon the claimants to produce originals/certified copy of the age supporting documents, particularly SSC certificate' since its "An Inquiry" in the nature of summary trial.

The SSC Certificate i.e. Matriculation certificate is held by the Hon'ble Supreme Court as a Public Document. Reference can be made to the case of "***Rishipal Singh Solanki Vs. State of Uttar Pradesh***, reported at ***(2022) 8 SCC 602***'.

In fact looking to the nature of the documents i.e. particularly the 'SSC certificate', and while the MSRTC has not disputed those particular documents, even procedure under Rule 3-A of Order XII of Civil Procedure Code could have been placed into service. This is what exactly expected to be done meaningfully while dealing with such Trial which infact is an Inquiry. The law provides ways to make profitable use of such public document in such Inquiry by taking recourse to available legal provisions to make them admissible in evidence and to look into.

(c) Technically Ld. Tribunal is certainly not at fault. But its the high time one has to exercise realistic approach on this point.

In my opinion Post Mortem Report or Inquest Panchnama is not at all dependable as regards to age because it merely put approximate age.

If more than one document are on record from which one fact (age as in present case) has to be ascertained, the document which is more beneficial for the claimants has to be considered by the Ld. Tribunals. For that, its for the courts and Tribunals to implement the provisions and the procedure meaningfully and proactively. As I observed, its an 'Inquiry' and not a routine suit. This is because its a benevolent and social beneficial legislation.

(d) Its trite law that the rules of Strict Evidence must not be insisted while dealing with cases arising out of Social Beneficial Legislation. For fiddling technicalities which could have been resolved by adopting appropriate legal recourse, the claimants must not be left to suffer injustice. Considering this is a beneficial legislation and a summary trial, in the peculiar facts of the case I deem it just to hold that the correct age of the deceased Ganesh ought to be held 24 years 09 months 21 days on the d/o accident, instead of approximate 27 years. Its particularly when the MSRTC has fairly and seriously not disputed the SSC Certificates- and also Aadhar card of the deceased. As such, in view of the prevailing law the correct multiplier would have been 'M-18', but not 'M-17'.

(e) This feel it appropriate to record that, while computing the award Ld. Tribunals must adopt a disciplined yardstick to apply the correct multiplier. A compensation claim is an Inquiry and a piece of social beneficial legislation. The object of this legislation is to provide 'Just & Proper' compensation to the deserving claimants.

Needless to mention, in the prevailing era almost everybody's age or date of birth is identifiable/noticeable at-least on one document e.g. Adhar card, PAN card, driving license,school record, some identity cards issued by State/Central Govts. etc. Then Ld. Tribunals bearing in mind that its an 'Inquiry', must call upon the Claimant side to produce on record either of such document to consider the age of the deceased. It won't be incorrect to observe that there would be hardly any person in the present epoch where there is absolutely no record of age / date of birth of such one. Reliance upon the Inquest Panchanama or Post mortem report is an archaic method to consider the age of deceased, where there was absolutely no availability of a least minimum evidence of deceased's age.

Instead of adopting a mechanical way of referring to Post Mortem report or Inquest Panchanama which merely predict the age of the deceased, its high time to switch on proactive mode and to call upon the Claimant side to produce adequate evidence indicating the age of deceased. This can be done even while issuing notice on Exhibit-1 which would be meaningful for early & 'less controversial disposal' of the claim petitions as also for early settlement of claim.

(f) This is for the obvious reason that even a tenuous error in applying multiplier relying upon Post Mortem report or Inquest Panchanama, results either in "injustice to the claimants or prejudice to public exchequer" which leads to unnecessary litigation. Ascertaining age of the deceased or victim as the case may be, is not merely a formality but a pivotal action to fix the 'Just & Proper' compensation. A judicial note is taken that number of First Appeals are preferred and pending from both sides predominantly against application of incorrect multiplier. When fixing a multiplier is well guided, there is no room to cause even a minor 'here & there' while applying the multiplier.

<u>5.4 INCOME of the deceased:</u>

5.4.1 So far as, the income of the deceased is considered, Mr. Mohit Deshmukh, ld.Advocate has taken me to the observation made by the Hon'ble Supreme Court in the case of ***Kirti (supra).***

Mr. Deshmukh relying upon paragraph 17 to 19 would submit that particularly, so far as death case of students is concern, the course they are studying, their academic proficiency, their family background, etc., would assist to determine and fix what they could earn in future. The relevant paragraphs are reproduced as follows:

> *17. There are two distinct categories of situations wherein the court usually determines notional income of a victim. The first category of cases relates to those wherein the victim was employed, but the claimants are not able to prove her actual income, before the court. In such a situation, the court "guesses" the income of the victim on the basis of the evidence on record, like the quality of life being led by the victim and her family, the general earning of an individual employed in that field, the qualifications of the victim, and other considerations.*
>
> *18. The second category of cases relates to those situations wherein the Court is called upon to determine the income of a non-earning victim, such as a child, a student or a homemaker. Needless to say, compensation in such cases is extremely difficult to quantify.*

> *19. The court often follows different principles for determining the compensation towards a non-earning victim in order to arrive at an amount which would be just in the facts and circumstances of the case. Some of these involve the determination of notional income. Whenever notional income is determined in such cases, different considerations and factors are taken into account. For instance, for students, the court often considers the course that they are studying, their academic proficiency, the family background, etc. to determine and fix what they could earn in the future. (See M.R. Krishna Murthi V. New India Assurance Co. Ltd.)*

5.4.2 It is noteworthy that the Hon'ble Supreme Court referred to and relied upon its earlier judgment in the case of ***M.R. Krishnamurti Vs. New India Assurance Company Limited***, reported in ***(2020) 15 SCC 493***. Then Mr. Deshmukh, learned Advocate for the claimants relies upon a case of ***Ashvinbhai Jayantilal Modi Vs. Ramkaran Ramchandra Sharma and Anr***, reported in ***(2015) 2 SCC 180***. Mr. Deshmukh, learned Advocate would urge that it was a case of death of a student prosecuting medical studies. He further submits that it was a death of 2002, wherein the Hon'ble Supreme Court has held income of the deceased @Rs.25,000/-.

In another death case of a medical student i.e. ***Bishnupriya Panda Vs. Basanti Manjari Mohanty and Anr***, wherein it was held that while the accident was of 2013, the Hon'ble Supreme Court approved the finding of the High Court of Orissa, wherein income of the deceased was held @Rs.50,000/- per month. Worth to note in this case, the Hon'ble Supreme Court has approved application of the Future Prospects in the compensation.

5.4.3 As such, Mr. Deshmukh, learned Advocate for the claimants would submit that the argument of the claimants before the learned Tribunal to hold income of the deceased @Rs.56,000/- per month ought to have been considered. Mr. Deshmukh, learned Advocate would submit that in view of the facts stated above and the law cited, the claimants deserve enhancement in the compensation.

5.4.4 Smt. Ranjana Reddy, learned Advocate for the M.S.R.T.C. would however supported the findings of the learned Tribunal on income of the deceased. She would vehemently submit that considering the uncertainty of job, Ld. Tribunal has rightly rejected claimants' prayer to hold deceased's income @ Rs.56,000/- p.m.

5.4.5 My findings: -

(a) Certainly, there was no income proof of deceased Ganesh Wagh. He was a final year medical student. The typical notional income concept can not be applied in such case. Hence this case needs to be judged in the light of the law developed by various judgments rendered by the Hon. Supreme Court.

There are certain categories of persons whose income can not be assessed with any tangible evidence viz a viz :

(i) Persons who are not in earning state of life e.g. minors, too old persons etc.;

(ii) those who are in earning state of life but can't be said to be employed & earning thereby, yet who contribute their families e.g. housewives/Persons having no direct income;

(iii) those who are in earning state of life but don't have any tangible proof of income or those whose income is uncertain etc. masons, labors etc.;

(iv) those who has some suggestive proof of job but don't have tangible proof of income e.g. drivers, shopkeepers, vendors etc.; and

(v) those who are not in earning state of life but have strong potentials to earn in view of their qualification, education, experience, profile etc.

(b) In the case of 'Laxmi Devi and ors. Vs. Mohammad Tabbar and ors.' reported at '2008 (12) SCC 165', the Hon. Supreme Court took exception to the Schedule-II to Section 163-A of the Motor Vehicles Act 1988. Hon. Supreme Court held income of the deceased in that case @ Rs. 3000/- p.m. notionally. Gradually the amounts of notional income went on varying on higher side in the light of the distinguishing facts of the cases which raised even upto 8,000/- p.m. to 12,000/- p.m.

(c) Its noteworthy that recently the Hon. Supreme Court has shown its disapproval in granting compensation merely on the basis of 'Notional Income'. The following guiding instances would demonstrate how the Hon. Supreme Court has taken realistic and pragmatic approach while imparting justice to secure the object of the benevolent legislation:

C-1 Category (I): Minors :

So far as case of Minors are concerned, Hon. Supreme Court directed to consider the Minimum Wages notified for skilled employee.

Reliance needs to be placed on the recent pronouncements of the Hon'ble Supreme Court in the case of ***Hitesh Patel Vs. Bababhai Rabari and ors. [2025 INSC 1070]***, wherein referring to its earlier decisions in the cases of ***Kajal v. Jagdish Chand and Ors. [2020 (4) SCC 413]*** and ***Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr. [2024 SCC Online SC 3692]***. Its pertinent to note that the Hon. Supreme Court has even directed the Insurance Companies to produce on record such Notifications issued by the Government from time to time laying down minimum salary/wages.

C-2 Category (ii) : Persons don't having direct income e.g. housewife

The Hon'ble Supreme Court in a landmark judgment in the case of Arun Kumar Agrawal Vs. National Insurance Co. Ltd. And ors. [2010 (9) SCC 218], observed that contribution of Housewife in homemaking is nonetheless lower than an earning member. In the said case the Ld. Tribunal held income of a housewife @ Rs. 5000/- p.m., The High Court reduced it to Rs. 2500/- p.m.

Disapproving reduction caused by the High Court in the income of a Housewife, the Hon. Supreme Court restored housewife's income @ Rs. 5000/- p.m.

The guiding observations of the Hon. Supreme Court are reproduced as follows:

> "*23. In India the Courts have recognized that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean 2 etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children.*
>
> *24. It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. husband and children. However, for the purpose of award of compensation to the*

> *dependents, some pecuniary estimate has to be made of the services of housewife/mother. In that context, the term 'services' is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. The amount payable to the dependants cannot be diminished on the ground that some close relation like a grandmother may volunteer to render some of the services to the family which the deceased was giving earlier."*

This law is consistently re-iterated by the Hon. Supreme Court in its later pronouncements.

Latest in the case of ***Arvind Kumar Pandey Vs. Girish Pande [C.A. 2512 of 2024]***, the Hon'ble Supreme Court observed that,

> *"7. Assuming that the deceased was not employed, it cannot be disputed that she was a homemaker. Her direct and indirect monthly income, in no circumstances, could be less than the wages admissible to a daily wager in the State of Uttarakhand under the Minimum Wages Act.*
>
> *8. It goes without saying that the role of a homemaker is as important as that of a family member whose income is tangible as a source of livelihood for the family. The activities performed by a home-maker, if counted one by one, there will hardly be any doubt that the contribution of*

a home-maker is of a high order and invaluable. In fact, it is difficult to assess such a contribution in monetary terms.”

C-3 Category (iii) & (iv): Persons not having income, but have potentials to earn qua their education background, profile etc.

In its another epochal decision, the Hon. Supreme Court was dealing with another category of persons who can be said to have some suggestive/indicative job but no income proof could be produced or could have uncertain income. It was a case of a truck driver where evidence was indicative of his job, but income was not proved. This case is known as ***Chandra @ Chanda@Chandraram & another V/s Mukush Kumar Yadav & Ors. [2021 INSC 593:C.A. No.6152 of 2021]***. Hon’ble Supreme Court ruled where income was uncertain or could not be proved, such guesswork to fix the income has to be carried out which would be a result of “cautious, judicious and contemplative mind”. Considering the nature of job of the accident victim, Hon. Supreme Court held that the notifications issued by the Central Government defining minimum wages can be taken into consideration, in peculiar facts, even something more can be added into the minimum fixed salary as notified by the Central govt.

Relevant portion from para. No.10 of "**Chandra**" case (supra) is reproduced as below for ready reference:

> *"In absence of salary certificate the minimum wage notification can be a yard-stick but at the same time cannot be an absolute one to fix the income of the de-ceased. In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income"*

C-4 Category (v): Persons having no income/job but have expedient potentials to suggest their income:

Now coming to the present case of category (v), Considering the facts of the case that the deceased was indeed a meritorious student, who has secured admission to government medical college at Aurangabad and was prosecuting final year of the M.B.B.S studies, it necessarily calls me to refer the realistic view latest expressed by the Hon. Supreme Court in the case of ***Sharad Singh (Died Per Lrs.) Vs. HD Narang and ors. [2025 INSC 1164 : C.A. 8136 of 2024]***.

It was a case of a student prosecuting the studies of Chartered Accountant. Their Lordships observed that,

> *"5. The learned Senior Counsel for the appellant argued that there was no rationale in adopting the minimum wages for determining the income of a bright student who was in the process of completing his graduation and proceeding to sit for the Chartered Accountants examinations. The learned Counsel for the Insurance Company first argued that the amounts determined as minimum wages, is as per the schedule in Delhi relatable to a graduate. We were not convinced that the minimum wages would be determined on the basis of the educational qualification alone without reference to the nature of work carried on. The learned Counsel after further verification submitted that minimum wages adopted is of the year 2001 applicable to a skilled worker. <u>We are not convinced that even that can be adopted for a graduate who was in the process of sitting for the Chartered Accountant examination which would have placed him in a good employment with immense prospects. The aspirations of the young man were shattered by the accident which left him paraplegic and fighting for breath, which also prompted the parents to relocate to another part of the country. We are of the opinion that even if he had not obtained the certificate as a Chartered Accountant, upon graduation, he could have been employed as an Accountant, who would have, on any reasonable estimate, received an amount of Rs.5,000/- as monthly income in the year 2001, if the minimum wages prescribed for a skilled worker was Rs.3,352/-.</u>*

> *Adopting Rs.5,000/- as monthly income, we are of the opinion that, as has been held in Pranay Sethi1 , 40% has to be computed as future prospects. The loss of income for the 100% disabled paraplegic would be Rs.15,12,000/- (Rs.5,000/- x 140% x 12 x 18). To this is to be added an amount of Rs.14 lakhs granted by the High Court under conventional heads and the medical expenses of Rs.11,22,356/- totalling to Rs.40,34,356/-. The total award carrying interest @ 9% per annum from the filing of the petition till realisation, as awarded by the Tribunal & the High Court and enhanced by us will be paid to the substituted appellant within a period of four months from today.*

(6) Conclusion

6.1 For the reasons recorded above, I am well guided by the fiat governed by reasoned realistic approach of the Hon. Supreme Court (supra) in compensation cases on the issues discussed herein. Corresponding to the category of the deceased i.e. a meritorious final year student of Medical faculty, I am of the considered view that the 'Just and proper' compensation must be in the light of the observations made by the Hon'ble Supreme Court in the case of ***Kirti*** (supra) , ***Bishnupriya*** (supra) and ***Sharad Singh*** (supra).

6.2 Hence, I feel appropriate to hold the income of the deceased Ganesh Wagh atleast @ Rs.50,000/- per month to fix the 'Just & Appropriate' compensation. The correct multiplier would be M-18 which is corresponding to the age of the deceased Ganesh Wagh. The Claimants are entitle for compensation under the head of 'Future Prospects' which equally shall carry interest.

6.3 In view of my findings above, in my opinion the correct computation of the award would be as follows:

Sr. No.	**Particulars**	**Amount**
1	Monthly income	50,000/-
2	Annual income (50,000*12)	6,00,000/-
3	Dependents	03
4	Deduction towards personal and living expenses (@ 50%)	-3,00,000/-
5	**Total (Annual income-deduction)**	**3,00,000/-**
6.	Age	24
7	Multiplier	18
8	**Total (Column 5*18)**	**54,00,000/-**
9	Future Prospects (Column 8*40%)	75,60,000/-
10	Non Pecuniary Damages	1,10,000/-
11	**Total enhanced amount**	**76,70,000/-**
12	Amount awarded by Tribunal	54,80,000/-
13	**Enhanced amount (Column 11-12)**	**21,90,000/-**

(07) Resultantly, I pass following order:

ORDER

I. First Appeal No.1369 of 2016 filed by the MSRTC stands **dismissed** without any order as to cost.

I-A The claimants i.e. R.Nos.1 to 3 in the First Appeal No.1369 of 2016 are entitle to withdraw the amount deposited by the Appellant in this Court, if any pending balance. Undertakings/security if any executed by the Claimants, stand discharged.

II. Cross Objection No.200 of 2025 is partly allowed thereby enhancing the compensation from Rs.54,80,000/- to 76,70,000/-.

III. Amount of Rs. 54,80,000/- at clause 2 of the operative order in the impugned Judgment & Order dtd.31-12-2012 passed by the Ld. Member, Motor Accident Claims Tribunal Aurangabad in Motor Accident Claim Petition No.241 of 2015, shall stand replaced by Rs. 76,70,000/-,

and

Amount of Rs.54,30,000/- at clause 3 of the operative order in the impugned judgment and order dated 31.12.2012 passed by the Ld. Member, Motor Accident Claims Tribunal Aurangabad in Motor Accident Claim Petition No.241 of 2015, be replaced by Rs.76,20,000/-;

IV. The respondents in the Cross Objection No.200 of 2025 shall deposit the enhanced amount in this Court within ten weeks together with interest @6 % p.a. from the date of institution of the claim petition i.e. w.e.f. 02.04.2015, till realization of the entire amount;

IV-A Upon such deposit in this court, the Claimants i.e. Appellants in the Cross Objection No.200 of 2025 shall be entitle to withdraw it in the same proportion as has been directed by the Ld. Tribunal;

V. Appellants in Cross Objection to pay deficit Court fees, if any;

VI. Civil Applications if any, stand disposed of in view of disposal of the First Appeal and the Cross Objection.

Pronounced in open court.

(AJIT B. KADETHANKAR, J.)

Rushikesh/2025