IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1443 OF 2022

1. Jafarsab S/o. Gafursab Shaikh (Hulsure),
   Age:L 50 years, Occu.: Nil,

2. Daulatbee W/o. Jafarsab Shaikh (Halsure)
   Age: 45 years, Occu.: Household,

   Both R/o. Valandi Tq. Deoni,
   Dist. Latur. ... Appellants
   (Orig. Claimants)

Versus

1. Mallikarjun S/o. Baburao Harge,
   Age: 34 years, Occu.: Driver & Business,
   (Owner & Driver of Jeep
   No.KA-36-M-2643)
   R/o. 9-112, near Church,
   Village Mangalgi, Tq. Humnabad,
   Dist. Bidar (Karnataka)

2. Shriram General Insurance Co. Ltd.
   Through its Branch Manager,
   Off. Office No.748, First Floor,
   Tulasi Chamber, in front of SFS School,
   Near Akashwani, Jalna Road,
   Aurangabad. … Respondents

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Mr. Ram S. Shinde, Advocate (through V.C.) for Appellants
Mr. N.K. Tungar, Advocate for Respondent No.1
Mr. Swapnil S. Rathi, Advocate for Respondent No.2

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 18 JULY 2025
PRONOUNCED ON : 29 JULY 2025

JUDGMENT :-

1. The instant appeal is filed by the original claimants, who are dissatisfied with the judgment and award dated 14.10.2021 passed by the M.A.C.T., Udgir, in M.A.C.P. No. 09 of 2019, granting compensation to the tune of Rs. 8,47,600/- with interest at the rate of 9% per annum.

2. The present appeal is precisely for enhancement of compensation. Apprising this Court about background of the accident claim, it is submitted that on 11.11.2017, deceased Mainoddin @ Khaja, was travelling on motorcycle bearing No.MH-12-LG6922 over Udggir-Deoni road. At around 4:00 p.m., a dash was given to his motorcycle by a Trax jeep bearing registration number KA-36-M-2643, causing him fatal injuries, to which he ultimately succumbed.

3. According to the claimants, at the time of the accident, the deceased Mainoddin @ Khaja was a healthy and hearty young person, aged 21 years. That, He worked as Welder and earned Rs.10,000/- per month. That his earnings were the sole source of income for the claimants, who are his parents, and on account of his accidental death, they have lost that source of income.

Hence, under various heads, they set up claim of Rs.50,00,000/-.

4. According to the claimants, at the time of the accident, respondent No.1 was the owner and driver of the offending jeep and was the sole negligent in causing the accident. The vehicle was insured with Respondent No.2, and both Respondents No.1 and 2 are jointly and severally liable to pay the compensation

5. After issuing notices, Respondent No. 1 failed to file a written statement; therefore, the Tribunal ordered the matter to proceed without it

The insurance company filed its written statement at Exhibit 15 and resisted the claim by denying negligence on the part of the driver/owner of the jeep.

6. After appreciating the oral and documentary evidence, the Tribunal passed the above judgment and award, thereby granting compensation to the tune of Rs. 8,47,600/-

7. Learned counsel for the appellants/claimants submits that the Tribunal erred in holding the notional income of the deceased to be Rs. 6,000/-. In fact, claimants have expected at least Rs.9,000/- to 10,000/- per month. That, the deceased was

doing welding work, which is skilled work. He further submits that, in view of the ratio laid down in ***National Insurance Company Limited v. Pranay Sethi*** and Others, 2017 (16) SCC 680, and ***Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram and Others***, (2018) 18 SCC 130, no amount has been granted under the heads of 'future prospects' and 'loss of estate'. Even a meagre amount has been awarded under the heads of 'funeral expenses' and 'loss of consortium

8. Per contra, the learned counsel for respondent No. 1, justified and supported the findings and conclusions arrived at by the Tribunal and prayed for no interference in the same.

9. Learned counsel for Respondent No. 2/insurance company pointed out that there is no evidence that the deceased was working as a welder or that he was earning Rs. 10,000/-. Therefore, according to him, the Tribunal was justified in fixing the notional income at Rs. 6,000/- per month. However, learned counsel for respondent no.2/insurance company fairly submits that amount deserves to be granted for future prospects as per ratio laid down in ***Pranay Sethi*** (supra).

10. Heard both the sides. Perused the impugned judgment and award.

11. Considering the above facts and submissions, and upon perusal of the record, there appears to be no serious challenge to the allegation of rash and negligent driving on the part of the driver/owner of the jeep. Only issue raised before this Court in appeal is the quantum of compensation.

12. This Court finds no fault in considering the notional income as Rs.6,000/-, as there is no iota of evidence about deceased was earning Rs.9,000/- to Rs. 10,000/- per month so as to consider and grant such quantum.

13. As regards the compensation awarded by the Tribunal under various heads, a perusal of the impugned judgment and award reveals that the computations and calculations made by the learned Tribunal are reflected in paragraph 23 of the impugned judgment. It is noticed that the Tribunal has not awarded any amount under the heads of 'loss of estate' and 'loss of future prospects'. Even a meagre amount appears to have been awarded under the heads of 'funeral expenses' and 'loss of consortium'.

14. In view of the ratio laid down in **Pranay Sethi** (Supra) and **Magma General Insurance Co. Ltd.** (supra), claimants are

entitled for Rs. 40,000/- each, i.e. 80,000/- plus 10% (Rs.8,000/-) which comes to **Rs. 88,000/-** towards loss of consortium. Rs. 15,000/- plus 10% (Rs.1,500/-), which comes to **Rs.16,500/-** towards loss of estate and Rs.15,000/- plus 10% (Rs.1,500/-), which comes to **Rs.16,500/-** towards funeral expenses. So also in view of the ratio laid down in above rulings, claimants are entitled for future prospects. Considering that the age of deceased at the time of accident was 21 years, **40%** needs to be awarded towards future prospectus.

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

	Head	**Amount (Rs.)**
1	Annual Income (Rs.6,000 x 12)	Rs.72,000/-
2.	Future Prospects 40% i.e. 28,800 (72,000 + 28,800)	Rs.1,00,800/-
3.	(-) 1/2 deduction towards personal expenses (1,00,800 – 50,4000/-)	Rs.50,400/-
4.	Multiplier 18 (52,400 x 18)	Rs.9,07,200/-
5.	Non-pecuniary Losses:- Loss consortium = Rs.88,000/- Loss of Estate = Rs.16,500/- Funeral Expenses = Rs.16,500/-	Rs. 1,21,000/-
6.	**Total compensation awarded**	**Rs. 10,28,200/-**
7.	(-) Compensation awarded by the Tribunal	Rs. 8,47,600/
8.	**Enhanced Compensation**	**Rs. 1,80,600/-**

16. In the result, following order is passed :-

ORDER

(i) Appeal is partly allowed with proportionate costs.

(ii) Impugned judgment and award dated 14.10.2021, passed by the District Judge-2 and Member of M.A.C.T., Udgir in M.A.C.P. No.09 of 2019 is modified.

(iii) Respondent no.3-insurance company to pay enhanced compensation of **Rs.1,80,600/-** to claimants within 12 weeks from today along with interest @ 9% 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 by Insurance Company, appellants/claimants are permitted to withdraw the same.

ABHAY S. WAGHWASE,
JUDGE

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