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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.3292 OF 2019

1. Sayyad Usman S/o. Sayyed Burhan,
Age: 57 years, Occu.: Labour,
R/o. Kok, Tq. Jintur,
Dist. Parbhani.

2. Sayyad Nasreen W/o. Sayyad Usman,
Age: 50 years, Occu.: Household,
R/o. Kok, Tq. Jintur,
District Parbhani.

... Appellants

Versus

1. Gajanan S?o. Gopichand Samale,
Age: Major, Occu.: Jeep Owner,
R/o. Takali (Kumbhkarna),
Tq. & Dist. Parbhani.

2. The Oriental Insurance Co. Ltd.
Branch: Parbhai through its Manager,
Daulat Building, Shivaji Chowk,
Parbhani, Dist. Parbhani.

... Respondents

.....

Mr. Mahesh P. Kale, Advocate for Appellants
Mr. V.N. Upadhye, Advocate for Respondent No.2

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 08 AUGUST, 2025

PRONOUNCED ON : 13 AUGUST, 2025

JUDGMENT :-

1. Dissatisfied by the impugned judgment and award dated 30.10.2017 passed by the Chairman, M.A.C.T, Parbhani in M.A.C.P. No.319 of 2012, appellants/original claimants have preferred the

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present appeal, primarily on the ground of the quantum awarded by the Tribunal on account of accidental the death of their minor son Sayyad Abdul Rehaman.

FACTS GIVING RISE TO THE PRESENT APPEAL ARE AS UNDER:

2. On 22.12.2011, deceased Sayyad Abdul Rehman was proceeding on a bicycle to his home after his school was over. At around 01:30 p.m., he was given dash from back side by jeep bearing registration No. MH-38/F-0183, causing a fatal head injury to which he succumbed. The appellants/parents of the deceased, filed an accident claim under Section 166 of the Motor Vehicles Act vide M.A.C.P No. 319 of 2012. On notice, present respondent No. 2/insurance company appeared and contested the claim, denying negligence on the part of the jeep driver and raising the grounds of breach of policy conditions as well as non-availability of a valid and effective driving licence.

3. After considering the respective cases, the learned Tribunal held that the driver of the jeep was rash and negligent, and found him responsible for the accident. The defence of insurance company about the breach of policy and non-availability of valid and effective driving licence was discarded. Considering the age of the deceased, by adverting to the law laid down in *R.K. Malik and Another Vs. Kiran Pal*

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and Others, 2009 (3) (T.A.C.) 1 (S.C.) and *Lata Wadhawa and others Vs. State of Bihar and others*, II (2001) ACC 316 (SC), claim was partly allowed directing opponent Nos.1 and 2 to jointly and severally pay compensation of Rs.3,35,000/- with interest @ 7.5% per annum vide judgment and award dated 30.10.2017.

4. The appellants/original claimants are dissatisfied with the quantum of compensation awarded by the Tribunal and have sought enhancement by relying on the decision of the Hon'ble Apex Court in *Meena Devi vs. Nanu Chand Mahto @ Nemchand Mahto and Others*, (2023) 1 SCC 204.

5. While countering the above submission, learned counsel for respondent No.2/insurance company has also placed reliance on *Meena Devi* (supra), so also placed written notes of arguments on record and would orally submit that, there is no evidence here about the deceased child to be capable of fetching future income.

6. Heard learned counsel for the appellants/claimants and learned counsel for respondent No.2/insurance company. None appeared for respondent No.1, though served.

7. On perusal of the impugned judgment and award, it is noticed that the rash and negligent driving of the jeep driver has not been seriously challenged. Even the defence set up by the insurance company regarding breach of policy conditions or non-availability of a valid and effective driving licence has not been substantiated. Even the finding regarding the same is not shown to be erroneous. Therefore, the only issue remains for consideration is the quantum.

8. In view of the judgment relied upon by the learned counsel for the respondent/insurance company, although there is no specific finding regarding the entitlement to future prospects, it is undisputed that the unfortunate child was returning home on bicycle after attending the school. This indicates that he was pursuing his education, and therefore, it is reasonable to hold that he would have completed his studies and might have earned in one or the other way. Accordingly, the claimants are entitled to compensation under the head of loss of future income.

9. In view of the ratio laid down in ***Meena Devi*** (supra), wherein the Hon'ble Supreme Court applied a standard quantum of compensation for minors, the same principle can be applied in the present case as well. In the facts of the present appeal, the deceased was minor boy aged 12 years studying in 8th Standard, who died in the accident.

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Therefore, by applying notional income of Rs.30,000/- per annum, including future prospects, and applying the multiplier of 15 for loss of dependency, the total amount comes to Rs.4,50,000/-.

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

	Head	Compensation Amount
1.	Notional Income including future prospect	Rs.30,000/-
2.	Multiplier 15 [Rs. 30,000- x 15]	Rs.4,50,000/-
3.	Loss of love and affection (as awarded by Tribunal)	Rs.1,00,000/-
3.	Funeral expenses. (As awarded by the Tribunal)	Rs.10,000/-
6.	Total compensation awarded	Rs.5,60,000/-
7.	(-) Compensation awarded by M.A.C.T.	Rs.3,35,000/-
8.	Enhanced Compensation ((5,60,000 – 3,35,00/-)	Rs.2,25,000/-

11. In the result, the following order is passed:

ORDER

- (i) Appeal is allowed with proportionate costs.
- (ii) Impugned judgment and award dated 30.10.2017, passed by Chairman, M.A.C.T. Parbhani, in M.A.C.P. No.319 of 2012 is modified.

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- (iii) Respondent no.2-insurance company to pay enhanced compensation of Rs.2,25,000/- to claimants within six 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 by Insurance Company, appellants/claimants are permitted to withdraw the same.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane