IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2372 OF 2024

1. Anjana w/o Digamber Puyed,
Age: 42 years, Occu: H.H. & Agri,

2. Pallavi d/o Digamber Puyed,
Age: 15 Years, Occu: Education,

3. Pooja d/o Digamber Puyed,
Age: 13 years, Occu: Education,

4. Riya d/o Digamber Puyed,
Age: 11 years, Occu: Education,
Applicants Nos.2 to 4 are minors
U/g of Applicant No.1 as real mother,
All r/o Punegaon,
Tq. and Dist. Nanded.

.....Appellants

VERSUS

1. Shivaji s/o Maroti Puyed,
Age: major, occupation: Agri.
R/o: Punegaon,
Tq. & Dist. Nanded.
(Owner of Tractor bearing No. MH-26-V-9027)

2. HDFC ERGO General Insurance Co. Ltd.
HDFC House, 1st floor 165-166 Backbay
Reclamation H.T. Parekh Marg, Church gate,
Mumbai-400020.

.....Respondents

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Mr. V. B. Dhage, Advocate for Appellant.
Mr. M. R. Deshmukh, Advocate for Respondent No.2
Mr. B. N. Gadegaonkar, Advocate for Respondent No.1

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CORAM : S. G. CHAPALGAONKAR, J.
Reserved on : February 05, 2025
Pronounced on : February 13, 2025

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FINAL ORDER :-

1. The appellants/original claimants aggrieved by the quantification of compensation under award dated 9.2.2022 in MACP No.360 of 2017 passed by the Motor Accident Claims Tribunal, at Nanded filed present appeal under section 173 of the Motor Vehicles Act.

2. On 07.02.2016 Digambar Puyed was dashed by insured tractor bearing registration No.MH-26/V-9027. He suffered fatal injuries in the said accident. The appellants/original claimants raised claim for compensation under section 166 of the Motor Vehicles Act. The Tribunal, after considering rival contentions passed an award of Rs.9,10,000/- alongwith the interest @ 7.5% p.a. in favour of the claimants.

3. Mr. Dhage, learned advocate appearing for the appellants submit that the Tribunal could have assessed the compensation by taking income of the deceased @ Rs.9,000/-

p.m. The Tribunal without any reason restricted the same to Rs.6,000/- p.m. Although, deceased was below 40 years of age at the time of accident, learned Tribunal did not grant compensation towards future prospects. Similarly, compensation as awarded against non-pecuniary heads is inadequate.

4. Per contra, Mr. Deshmukh, learned counsel appearing for the respondent Insurance Company justified the award.

5. Having considered submissions advanced, it can be observed that claimants have pleaded income of deceased from agriculture and milk business. The 7/12 extract Exh.32 shows that he possessed hardly 40R land. Nothing is filed on record to show business of milk except the certificate regarding possession of four cattles. The learned Tribunal, therefore, rightly assessed notional income of the deceased @ Rs.6,000/- p.m.

6. The age of deceased has been accepted by the Tribunal in the range of 36 to 40 years. Multiplier of 15 is rightly applied. There are four dependents. As such,

deduction of 1/4th amount towards personal expenses of deceased is justified. However, Tribunal did not add anything towards future prospects. In light of the law laid down by the Supreme Court of India in case of **National Insurance Company Limited Versus Pranay Sethi & Ors. (2017)16 SCC 680** addition of 40% is permissible towards future prospects for non-salaried victim. There are four dependents. Hence, they are entitle for consortium @ Rs.40,000/- each. The claimants are further entitle for compensation of Rs.45,000/- towards non-pecuniary heads like funeral expenses, loss of estate and transportation.

7. In the Result, the award passed by the Tribunal needs to be modified as per following calculations.

Particulars	Assessment
Income	6,000*12=72,000/-
Deduction towards Personal and Living Expenses 1/4th	72,000-18,000 =54,000/-
Multiplier	15*54,000/- =8,10,000/-
Future Prospectus 40%	3,24,000/-=11,34,000/-
Consortium	40,000*4=1,60,000
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Amount Awarded	9,10,000/-
Possible Enhancement	13,24,000-9,10,000 = **4,14,000/-**

O r d e r

i. First Appeal is partly allowed.

ii. The claimants are held entitled for enhanced compensation of Rs.4,14,000/- (Rs. Four Lakh Fourteen Thousand only) in addition to compensation as awarded by the Tribunal.

iii. Enhanced compensation shall carry interest @ 7.5% p.a. from date of claim petition till its realization. Rest of directions shall *mutatis mutandis* apply to enhanced compensation as per judgment and award of Tribunal.

iv. First Appeal stands disposed of. Pending civil application, if any, also stands disposed of.

(S. G. CHAPALGAONKAR)
Judge

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