



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 2296 OF 2024

**KASABAI WD/O RAJU JADHAV AND ORS
VERSUS
MAROTI S/O GANESHRAO GARKAR AND ANR**

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Mr. V. B. Dhage, Advocate for Appellants

Mr. M. R. Deshmukh, Advocate for Respondent No.2

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CAROM : S. G. CHAPALGAONKAR, J.

Dated : 05th FEBRUARY, 2025

PER COURT :-

1. Heard, learned Advocate appearing for respective parties.
2. By consent of parties, appeal is taken for final disposal at admission stage.
3. The original claimants in MACP No.85 of 2020, decided by Motor Accident Claims Tribunal, Hingoli, filed present appeal seeking enhancement of compensation. Undisputedly, deceased Raju Jadhav died on account of injury suffered in Motor Vehicular Accident dated 07.02.2020 involving the vehicle insured with respondent No.2. It is not disputed that

the appellants/original claimants were dependent on income of deceased. It has come on record that the deceased Raju was agricultural labor. According to claimants, he was earning Rs. 9000/- per month. However, the Tribunal notionally considered his income at the rate of Rs. 4000/- per month. Consequently, award for Rs.8,76,400/- has been passed.

4. Mr. Dhage, learned Advocate appearing for the appellant vehemently submits that the accident in question took place in the year 2020. Even going by minimum wages as applicable for the agricultural labor, the Tribunal could not have considered the income of deceased less than Rs. 6000/- per month. He would further submit that each of the claimants was entitled for compensation towards loss of consortium, however, Tribunal awarded Rs. 40,000/- commonly without considering entitlement of each of the claimants. Mr. Dhage would also object to inadequate compensation towards funeral expenses.

5. Per contra, Mr. Deshmukh, learned Advocate appearing for the respondent / Insurer justifies the award. He submits

that deceased was residing in a small village and engaged in agricultural labor, which is not the continuous activity. According to him, Tribunal has rightly considered income at the rate of Rs. 4000/- per month.

6. Having considered submissions advanced, limited issues arises for consideration in this appeal, as to assessment of correct income of deceased and their entitlement under non-pecuniary head.

7. Accident in question took place in the year 2020. Even, by minimum wages as declared for labors working in agricultural sector, income of the deceased could not have been assessed less than Rs. 6000/- per month. Therefore, contention of Mr. Dhage on this aspect is acceptable. It can be gathered from the final assessment made by the Tribunal that compensation towards loss of consortium is not given to minor claimant Nos.2 and 3 and mother of the victim i.e. claimant No.5. Each of them is certainly entitled for the compensation towards loss of consortium at the rate of Rs. 40,000/- as per law laid down by the Supreme Court in case of *Magma General Insurance Co. Ltd vs Nanu Ram Alias*

Chuhru Ram (2008) 18 SCC 130. The Tribunal ought to have granted Rs. 25,000/- under the head of funeral expenses.

8. Considering the aforesaid aspects, the compensation payable to the claimant can be re-fixed as under.

Heads	Amount
Notional income	6000/-
Deduction 1/4th (5 claimants)	1500/-
Monthly income	4500/-
40% addition future prospects	1800/-
Monthly dependency after addition of future prospects	6300/-
Annual dependency	6300x12 =75,600/-
Multiplier	16
Pecuniary loss	75,600 x 16 =12,09,600/-
Non pecuniary loss	40,000/- each x 5
Loss of Estate	15,000/-
Funeral Expenses	25,000/-
	12,09,600/-
	2,40,000/-
	14,49,600/-
Already awarded	8,76,400/-
Enhancement	5,73,200/- interest 6%

9. In result, appeal is **partly allowed**. Hence, following order:

ORDER

a) The award passed by the Tribunal is modified.

- b) The respondent Nos.1 and 2 shall jointly and severally pay total compensation of Rs.14,49,600/- (Fourteen lakh fourty nine nine thousand six hundred rupees only) to claimants along with interest at the rate of 6% per annum from date of Petition.
- c) The apportionment of compensation as made by the Tribunal under its award shall remain undisturbed.
- d) The compensation already paid/deposited as per award passed by Tribunal shall be appropriated.
- e) The appellants shall also be liable to deposit the deficit Court fees.

(S. G. CHAPALGAONKAR, J.)