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

FIRST APPEAL NO.5059 OF 2017

1. Smt. Pooja @ Bhagyashri Wd/o Prashant Parsale
   Age: 24 years, Occu.: Housewife,

2. Pushkar S/o Prashant Parsalge,
   Age: 3 years, Occu. Nil (Minor)
   Through his natural guardian and mother
   Smt. Pooja @ Bhagyshri Wd/o Prashant Parsalge

3. Shivshankar S/o Malappa Parsalge,
   Age: 48 years, Occu.: Agri.,

4. Hirkanbai W/o. Shivshankar Parsalge,
   Age: 53 years, Occu.: Household,

All R/o. Killari, Tq. Ausa, Dist. Latur … Appellants
(Orig. Claimants)

Versus

1. Lokmangal Agro Industries Ltd.,
   Through its Managing Director,
   Subhash Nagar, Bibidharphal,
   Tq. North Solapur, Dist. Solapur

2. Datta S/o. Kishanrao Chavan,
   Age: 27 years, Occu.: Driver,
   R/o. Mahatpuri (Tanda),
   Tq. Gangakhed, Dist. Parbhani

3. The New Indian Assurance Co. Ltd.
   Through its Branch Manager,
   Branch Office, Chandranagar,
   Latur, Dist. Latur. … Respondents

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Mr. B. R. Kedar, Advocate for Appellants
Mr. S. B. Madde, Advocate h/f Mr. A. R. Joshi, Advocate for Respondent No.1
Mr. Omkar S. Patil, Advocate h/f Mr. S. S. Shinde, Advocate for Respondent No.2
Mr. M. M. Ambhore, Advocate for Respondent No.3

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 16 JUNE, 2025
PRONOUNCED ON : 02 JULY, 2025

JUDGMENT :-

1. Original claimants in Motor Accident Claim Petition No.114 of 2014 are primarily dissatisfied on the quantum awarded by the learned Tribunal under various heads on account of death of the husband of appellant No.1 in road traffic accident dated 20.03.2014, and by the present appeal, they have assailed the judgment and award dated 06.04.2017.

BRIEF FACTS GIVING RISE TO THE APPEAL

2. On 20.03.2014, deceased Prashant aged 24 years was proceeding on his motorcycle bearing registration no. MH-24-AD-5871 from village Killari to village Kunhalli. At that time, truck bearing No. MH-13-R-7315 came from opposite direction in high speed and without giving any signal, suddenly stopped in the middle side of the road, due to which motorcycle was dashed inflicting fatal injuries to deceased Prashant, who succumbed to the same.

3. On report, investigation was conducted and charge-sheet was filed against respondent No.2-truck driver. Appellant-wife, son and parents of deceased Prashant set up an accident claim before the Motor Accident Claims Tribunal, Latur to the tune of Rs.5,00,000/- under various heads. Notices were issued to the respondents. Respondent nos.1 and 3 resisted the claim by filing written statement. Respondent no.2 failed to contest, and therefore, matter proceeded without his written statement. Both, oral as well as documentary evidence, was permitted to be adduced.

4. On appreciation of the same, Tribunal framed issues vide Exhibit-32, and after recording evidence and hearing parties, allowed the claim petition directing respondent nos.1 and 3 to jointly and severally pay compensation of Rs.5,00,000/- with future interest @ 6% under various heads vide judgment and award dated 06.04.2017. Claimants are aggrieved precisely by inadequate compensation awarded by the Tribunal.

5. Learned counsel for claimants assailed the quantum of compensation awarded by the Tribunal, contending that the Tribunal has committed an error while making calculation of

compensation under various heads. He submits that, the Tribunal has not considered the issue of future prospects while determining the amount of compensation. He further submits that, Tribunal has also not awarded compensation under the heads such as loss of love and affection, loss of estate etc. That, meager amount has been granted under various heads like funeral expenses etc. Even interest awarded by the Tribunal is excessively less.

6. Per contra, the learned counsel for respondent nos.1 and 2 and the learned counsel for the insurance company justified and supported the findings and conclusion arrived at by the Tribunal and prays no interference in the same.

7. Heard learned counsel for appellants/claimants, learned counsel for respondent nos.1 and 2 and learned counsel for respondent no.3 /insurance company. Perused the record.

8. There is no dispute about occurrence, rashness and negligence, and findings to that extent arrived at by the Tribunal.

9. After hearing the learned counsel for the appellants, it appears that the primary ground of appeal is dissatisfaction with

the quantum awarded under the head of loss of future income from agricultural produce, meager amount being granted under the head of funeral expenses, loss of consortium etc. In support of his submissions, learned counsel for the claimants relied on the judgment of the Hon'ble Apex Court in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and Others, (2018) 18 SCC 130*** and judgment of this Court in ***The United India Insurance Co. Ltd. Vs. Sumanbai Samindar Chavhan*** (First Appeal No.01 of 2017).

10. On re-appreciation and reanalysis of the evidence, it is observed that, the claim set up by the present appellants before the Tribunal is that the deceased, who was 24 years of age, was earning Rs. 2,00,000/- per year through vegetable vending and agricultural income. Claimants have lost their source of income. In support of agricultural income, claimants have adduced evidence of vegetable vendor, namely, Masumali Bagwan, who produced the sale receipts at Exhibits 56 and 60. One Ismail Bagwan, another vegetable vendor, also produced bills of payments made to deceased Prashant, which are at Exhibits 63 to 66. In their evidence, they have deposed about deceased Prashant supplying vegetables for sale. Though they failed to

produce the original records maintained regarding the sale and purchase transactions, considering the benevolent nature of the provision, the standard of strict proof is given way to. These vegetable vendors have testified before the Tribunal about transactions made with them by deceased Prashant. However, it has come out in the evidence of appellant no.1-wife that the agricultural land, which was the source of the agricultural produce, was joint family property standing in the name of claimant no.3-father. Therefore, this shows that agricultural land was jointly owned, rather than separately standing in the name of deceased. However, in light of the evidence of independent witnesses, such as vegetable vendors, there is no reason to carve out a distinct income from the agricultural land owned by the father, as deceased Prashant was earning income from the said land, which served as the source of livelihood for his family comprising of his wife and son.

11. In the present case, computations and calculations made by the learned Tribunal are reflected in paragraph 23 of the impugned judgment. It is noticed that, incomplete method was adopted for arriving at the annual income. Apparently, no amount has been awarded under the head of future prospects.

So also, no amount has been awarded under the heads of loss of estate, loss of love and affection and funeral expenses, and even meager amount appears to have been awarded under the head of loss of consortium.

12. In view of the ratio laid down in ***National Insurance Company Limited vs. Pranay Sethi and others 2017 (16) SCC 680***, and ***Magma General Insurance Co. Ltd.*** (supra), claimants are entitled for Rs. 40,000/- each, i.e. 1,60,000/- plus 20% (Rs. 32,000/-) which comes to **Rs. 1,92,000/-** towards consortium and loss of love and affection. Rs. 15,000/- plus 20% (Rs.3,000/-), which comes to **Rs.18,000/-** towards loss of estate and Rs.15,000/- plus 20% (Rs.3,000/-), which comes to **Rs.18,000/-** towards funeral expenses.

13. Claimants are also entitled for future prospects. Considering that the age of deceased at the time of accident was 24 years, 40% needs to be awarded towards future prospectus in view of ratio in ***Magma General Insurance Co. Ltd.*** (supra).

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

Sr. No.	Heads	Amount (Rs.)
1.	Annual Income (i.e. Rs.3000 X 12)	Rs. 36,000/-
2.	Future Prospects 40% i.e. 14,400 (36,000 + 14,400)	Rs. 50,400/-
3.	Less 1/4 deduction towards personal expenses. (Rs. 50,400 – Rs 12,600)	Rs. 37,800/-
4.	Multiplier of 18 (37,800 X 18)	Rs.6,80,400/-
5.	Non-pecuniary Losses:- Loss consortium and Love and affection = Rs.1,92,000/- Loss of Estate = Rs.18,000/- Funeral Expenses = Rs.18,000/-	Rs.2,28,000/-
6.	**Total compensation to be paid** (i.e. 6,80,400 + 2,47,000)	**Rs.9,08,000/-**
7.	**Compensation awarded by Tribunal**	**Rs.5,00,000/-**
8.	**Total Enhanced Compensation (9,08,000 – 5,00,000)**	**Rs.4,08,000/-**

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

ORDER

(i) Appeal is partly allowed with proportionate costs.

(ii) Impugned judgment and award dated 06.04.2017, passed by Adhoc District Judge-1 and Ex-Officio Member of M.A.C.T., Latur in M.A.C.P. No.114 of 2014 is modified.

(iii) Respondent no.3-insurance company to pay enhanced compensation of Rs.**4,08,000/-** to claimants within 12 weeks from today along with interest @ 6% 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