Names of Respondent Nos. 6 and 7 corrected as per order dated 6th May, 2025 passed by this Court in Civil Application No. 5331 of 2025

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

FIRST APPEAL NO.536 OF 2019

United India Insurance Company Ltd.,
Through its Administrative Officer (T.P. Hub)
Shri. Mahendra Pratapsingh Virat,
Age : 50 years, Occu : Service,
R/o. Divisional Office – I,
Osmanpura, Aurangabad. … Appellant
(Orig. Resp. No.2)

Versus

1. Vimal w/o. Bhagwan Wasu,
Age : 34 years, Occu : Household,
R/o. Chinchala, Tq. Hingoli,
Dist. Hingoli

2. Sindhu Bhagwan Wasu,
Age : 18 yrs, Occu : Education,
R/o. As above.

3. Kavita d/o. Bhagwan Wasu,
Age : 15 yrs, Occu : Education,
R/o. As above.

4. Hanuman s/o. Bhagwan Wasu
Age : 16 yrs, Occu : Education,
As above.

5. Radheshyam Bhagwan Wasu
Age : 13 yrs, Occu : Education
R/o. As above

(Respondent Nos.3 to 5 are minor through its U/G. of Respondent No.1)

6. Ramji s/o Panduji Wasu
Age : 64 yrs, Occu : Nil,
R/o. As above.

7. Prayagbai w/o. Ramji Wasu
Age : 54 yrs, Occu : Nil,
R/o. As above. (Orig. Claimants)

8. Sanjay s/o. Piraji Babhulkar,
Age : Major, Occu : Business,
R/o. Post Office Road,
Hingoli, Dist. Hingoli ... Respondents

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Shri. Swapnil S. Rathi, Advocate for the Appellant
Shri. Vaibhav B. Dhage, Advocate for the Respondents

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WITH

CIVIL APPLICATION NO.3431 OF 2025

IN

FIRST APPEAL NO.536 OF 2019

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CORAM : NEERAJ P. DHOTE, J.

RESERVED ON : 02.04.2025

PRONOUNCED ON : 08.04.2025

JUDGMENT :-

. This is the Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'M.V. Act') against the Judgment and Award dated 11.07.2018 passed by the Motor Accident Claims Tribunal, Hingoli (hereinafter referred to as the 'Tribunal') in MACP No.244/2015, awarding total compensation of Rs.23,54,000/- (Rs. Twenty Three Lakh Fifty Four Thousand only) to the Claimants with interest @ 7% per annum from the date of Petition till it's full and final realization.

2. The facts, in brief, giving rise to the present Appeal are as follows :

2A. Bhagwan Ramji Wasu (hereinafter referred to as 'Deceased') was engaged in agricultural work and used to sell milk from his cattle. Deceased was residing with his family comprising Widow, four Children and Parents at village Chinchala, Tal. & Dist. Hingoli. On 19.03.2015 when Deceased was returning to his village with his friend Babarao Mandale on motorcycle and stopped at one place besides the road for answering nature's call, at that time the Indica Car bearing No. MH-38/2585 which was owned by Respondent No.8 and insured with the Appellant / Insurance Company and which was being driven by it's driver in rash and negligent manner on the said road, gave dash to the stationary motorcycle and Deceased. Due to the Car dash, Deceased suffered severe injuries and died. The accident was reported to the Hingoli (Rural) Police Station and Crime No.37/2015 came to be registered for the offence punishable under Sections 304-A, 279 and 427 of the Indian Penal Code (in short, 'I.P.C.') against the Driver of the said Car. The investigation was carried out and the Driver was Charge-sheeted by the Police.

2B. Respondent Nos.1 to 7 / Claimants filed the above referred Claim Petition under Section 166 of the M.V. Act against the Appellant and Respondent No.8 before the learned Tribunal for compensation of Rs.22,00,000/- (Rs. Twenty Two Lakh). The Claim Petition was contested by the Appellant by filing Written-statement at Exh.14. In support of the Claim Petition, the Widow examined herself by filing evidence Affidavit at Exh.17 and brought on record the Police papers, copies of Insurance Policy of the Car, copies of Driving Licence of

Respondent No.8 and that of the Car Driver. The Appellant did not lead any evidence. The learned Tribunal decided the Claim Petition by impugned Judgment and Award.

3. Heard the learned Advocate for the Appellant and the learned Advocate for Respondent Nos.1 to 7. Service to Respondent No.8 is exempted in view of the order dated 08.02.2019. Perused the record.

4. It is submitted by the learned Advocate for the Appellant that the learned Tribunal has granted exorbitant compensation. The per month income of Deceased is considered as Rs.8,000/- (Rs. Eight Thousand) which is on higher side. In absence of any income proof brought on record by Respondent Nos.1 to 7, the learned Tribunal ought to have considered the notional income of Rs.4,500/- per month. No deductions were made towards personal expenses. Addition of 40% towards future prospects was erroneous. There was no proof of age of Deceased and therefore the multiplier applied by the Tribunal was incorrect. The impugned Judgment and Award be set aside and the compensation awarded be reduced.

5. It is submitted by the learned Advocate for Respondent Nos.1 to 7 that the learned Tribunal has rightly considered the evidence available on record and there is no dispute on the aspect of motor vehicular

accident by use of said Car which was duly insured with the Appellant. The learned Tribunal has rightly quantified the amount under various heads which are in accordance with law and needs no interference and hence, the Appeal be dismissed.

6. There is no dispute in respect of the relations of Respondent Nos.1 to 7 with Deceased. As regards the death of Deceased due to motor vehicular accident, there is no serious dispute. The Police papers available on record *vide* list of documents at Exh.4 shows that the Crime was registered on 20.03.2015 in respect of motor vehicular accident by use of said Car and at the said place, referred above. The Spot Panchanama speak of the accident and registration number of the said Car is reflected in the FIR which was lodged on the very next day of the accident. The Post-mortem Report shows the death due to ‘Head Injury’. Nothing contrary is brought on record by the Appellant to discard the Police papers and come to the conclusion other than the one that Deceased died due to the motor vehicular accident due to use of the said Car.

7. There is also no dispute that the said Car was registered in the name of Respondent No.8 and insured with the Appellant at the time of the accident. The copy of the Insurance Policy / Certificate is available on record.

8. As regards the income of Deceased is concerned, according to Respondent Nos.1 to 7, monthly income of Deceased was Rs.10,000/- (Rs. Ten Thousand). The Widow of Deceased, who examined herself as the witness in support of the Claim Petition, admitted that no documents were brought on record to show the income of Deceased. There is no dispute on the aspect that there was no evidence at all in respect of the earnings of Deceased. The learned Tribunal considered the monthly income of Deceased at Rs.8,000/- (Rs. Eight Thousand) per month. According to Respondent Nos.1 to 7, Deceased was educated up to 7th Standard and he was working in agricultural field and selling milk. Undisputedly, Deceased was residing and working in the village. Accident was of the year 2015. Therefore, in absence of income proof, the appropriate notional income can be considered as Rs.6,000/- (Rs. Six Thousand) per month.

9. As regards the age of Deceased is concerned, the Widow who examined herself as the witness conceded that she was not able to bring the Birth Certificate of Deceased. In the Police papers i.e. Inquest and Post-mortem the age of Deceased is mentioned as 30 years. In the Claim Petition, which was filed within three (3) months from the accident, the age of Deceased is given as 35 years. In the Claim Petition, the age of Widow of Deceased is mentioned as 30 years and the age of Deceased's Father is mentioned as 60 years and age of Mother is mentioned as 50 years. From this, it can be said that Deceased was between 31 to 35

years. The number of dependent family members of Deceased exceeds six (6) and therefore, the deduction towards personal and living expenses will be 1/5th and multiplier of 16 would be applicable as per the Judgment of **Sarla Verma & Ors vs. DTC, (2009) 6 SCC 121**.

10. Since Deceased was self-employed and below the age of 40 years, there would be 40% addition to his monthly income as per the Judgment in the case of **National Insurance Co. Ltd. vs. Pranay Sethi, (2017) 16 SCC 680.**

11. The Widow, Children and the Parents of Deceased would also be entitled for compensation under the head of Spousal Consortium, Parental Consortium and Filial Consortium, respectively, @ Rs.40,000/- (Rs. Forty Thousand) each, in view of the above referred Judgment in the case of **Pranay Sethi** (*supra*) and **Magma General Insurance Co. Ltd vs. Nanu Ram alias Chuhru Ram & Ors, 2018 (18) SCC 130** cited by the learned Advocate for Respondent Nos.1 to 7.

12. As regards the other conventional heads such as Loss of Estate and Funeral Expenses would be Rs.15,000/- (Rupees Fifteen Thousand) each, as per the settled legal principles in the case of **Pranay Sethi** (*supra*) which would come to Rs.30,000/- (Rs. Thirty Thousand).

13. In the light of the above, the total compensation is worked out as follows :-

Sr. No.	Heads	Amount
1.	Notional income	Rs.6,000/-
2.	40% addition.	Rs.2,400/-
3.	1/5th deduction towards personal expenses	Rs.1,680/-
4.	Yearly income	Rs.80,640/-
5.	Multiplier of 16	Rs.12,90,240/-
6.	Consortium 40% each	Rs.2,80,000/-
7.	Loss of estate and notional expenses	Rs.30,000/-
	Total compensation :	**Rs.16,00,240/-**

14. Section 171 of the M.V. Act provides for simple interest on the amount of compensation. The learned Tribunal considered the interest @ 7% per annum from the date of filing of the Petition till it's full and final realization, for which no interference is called for.

15. In the light of the above, the impugned Judgment and Award stands modified and the Appeal is partly allowed. Hence, the following order.

ORDER

(i) The Appeal is partly allowed.

(ii) The Appellant and Respondent No.8 shall be jointly and severally liable to pay compensation of Rs.16,00,240/- (Rs. Sixteen Lakh Two Hundred Forty) to Respondent Nos.1 to 7 with interest @ 7% per annum from the date of Claim Petition till it's full and final realization.

(iii) Respondent No.1 shall get Rs.4,00,000/- (Rs. Four Lakh) along with interest and costs.

(iv) Respondent Nos.2 to 5 shall get equal share of Rs.2,50,060/- (Rs. Two Lakh Fifty Thousand Sixty) each, along with interest and costs.

(v) Respondent Nos.6 and 7 shall get Rs.1,00,000/- (Rs. One Lakh) each, along with interest and costs.

(vi) The amount awarded by the learned Tribunal is deposited by the Appellant with this Court. As by Order dated 08.02.2019, Respondent No.1 was permitted to withdraw Rs.2,50,000/- (Rs. Two Lakh Fifty Thousand) and Respondent Nos.6 and 7 were permitted to withdraw Rs.1,00,000/- (Rs. One Lakh) each. The computed amount be disbursed to Respondent Nos.1 to 5 to the extent of their share as worked out above and the remaining amount, if any, after computing and disbursing to above referred Respondents, be returned back to the Appellant.

(vii) Since by now Respondent Nos.2 to 5 must have become major, the amount of their share be transferred to their respective bank accounts. The share of Respondent Nos.1, 6 and 7 be transferred to their respective bank accounts.

(viii) Pending Civil Application, if any, stands disposed off.

(NEERAJ P. DHOTE, J.)

GGP

Signed by: Gajanan G. Punde
Designation: PA To Honourable Judge
Date: 09/06/2025 17:41:37