



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO. 777 OF 2018

APPELLANT :

(Org. R-2)

(On R.A.)

The New India Assurance Co. Ltd.
Through its Regional Manager,
Dr. Baba Saheb Ambedkar
Bhavan, M.E.C.L. Premises, Seminary
Hills, Nagpur.

V E R S U S

RESPONDENTS :

1. Smt. Jyoti Amol Jadhav,
Age years, Occu – Household,
2. Ku. Priyanka Amol Jadhav,
Age 8 years, Occ. Education,
3. Ravi Amol Jadhav,
Age 6 Years, Occ. Education,
4. Ku. Sujata Amol Jadhav,
Age 04 years, Occu. Nil.

R-2 to 4 minors Legal heirs of R-1.

5. Sakharam Govinda Jadhav,
Age 60 years, Occ. Nil.
6. Mrs. Usha Sakharam Jadhav,
Age 56 years, Occ. Household.

Respondents No.1 to 6 are resident of
Amdapur, Ta. Chikhali, Dist. Buldhana.

7. M/s. Astech (India) Pvt. Ltd.,
Through its Manager,
R/o 30 Popatwadi, Kalbadevi Road,
Princes Street, Mumbai 400002.

Shri Sandeep Marathe, Advocate for appellant.

Shri S. P. Pawar, Advocate for respondent Nos.1 and 6.

CORAM:- SANDIPKUMAR C. MORE, J.

DATED : 15/01/2025.

ORAL JUDGMENT :

1. Heard finally with consent of learned Counsel appearing on behalf of the rival parties at admission stage.

2. The appellant - Insurance Company has filed this appeal against the assessment of compensation done by the learned Tribunal, mainly on the ground that the learned Tribunal wrongly awarded compensation to the respondent Nos.1 to 6 - claimants under the head of love and affection even after granting compensation under the head of consortium. Further, it is submitted by the learned counsel for the Insurance Company that the amount of consortium is also granted in exorbitant manner contrary to the observations of Hon'ble Supreme Court in case of **National Insurance Company Limited Vrs. Pranay Sethi and others,** reported in **(2017) 16 SCC 680**. He is also having grievance about granting excessive amount under other heads.

3. Consequently, learned counsel for the Respondents / Claimants today submitted modified calculation in respect of compensation, which is to be awarded to the respondent Nos.1 to 6 – claimants as per the observations of Hon'ble Apex Court in the case of **United India Insurance Company Limited Vrs. Satinder**

Kaur Alias Satwinder Kaur and others, reported in **(2021) 11 SCC 780**. The said calculation is taken on record and marked as “X” for identification.

4. The learned counsel for appellant / Insurance Company submitted at bar that the impugned award may be modified as per the aforesaid calculation. In view of the submissions made by the learned counsel for the claimants, the appeal stands partly allowed and the compensation amount granted by the learned Tribunal in the impugned award stands modified as below :-

- i] **Income** : Rs.4,000/- per month.
- ii] **Future Prospects** : Rs.2,000/- @ 40%.
Rs.4,000/- + Rs.1,600/- = Rs.5,600/-.
- iii] **Deduction towards personal expenditure** : Rs.1,400/-
(1/4 deduction of Rs.5,600/- as having 6 dependants).
- iv] **Total Income** : Rs.4,200/- per month.
- v] **Multiplier** : 16.
- vi] **Loss of Future Income** : Rs.8,06,400/- (Rs.4,200/- X 12 X 16)
- vii] **Deduction of NFL** : Rs.8,06,400/- - Rs.50,000/- = Rs.7,56,400/-
- viii] **Consortium** : Rs.2,40,000/- (Rs.40,000/- Each for R. 1 to 6)
- ix] **Loss of Estate** : Rs.15,000/-.
- x] **Funeral Expenses** : Rs.15,000/-.
- xi] **Total Compensation** : Rs.10,26,400/-.
- xii] **Interest @ 9% p.a.** : Rs.10,26,400/- X 9 – 100 = Rs.92,376/- per year.

xiii] **Total Interest** : Rs.92,376/- X 5 Y. 10 M. = Rs.5,38,860/-.
(i.e. From 16/08/2012 to 18/06/2018).

xiv] **Total compensation along with interest** :

Rs.10,26,400/- + Rs.5,38,860/- = **Rs.15,65,260/-**

5. The aforesaid amount of compensation shall carry the same interest as granted by the learned Tribunal. The award be prepared accordingly.

6. It appears that the respondents - claimants during the pendency of this appeal have withdrawn 50% amount of compensation deposited by the appellant - Insurance Company.

7. In view of modified amount of compensation, the appellant - Insurance Company is permitted to withdraw the additional amount of compensation after the calculation along with interest accrued thereon till date. Out of the balance amount of compensation, 80% of the same be paid to the respondent Nos. 1 to 4 - claimants in equal proportion along with proportionate interest accrued thereon.

8. The remaining 20% amount be paid to respondent Nos. 5 and 6 along with interest accrued thereon in equal proportion.

9. The appeal along with pending Civil Application (CAF)
No.3425/2024 stands disposed of.

[SANDIPKUMAR C. MORE, J.]

Choulwar