



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO. 826 OF 2024

The New India Assurance Company Limited,
Through its Branch Manager, Main Road,
Wardha, District – Wardha,
(Insurer of Tipper No.MH-32-Q-6609)
(Original Respondent No.2 on R.A.)

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... Appellant

Versus

1. Vidyatai wd/o Ravindra Karpate
Aged about 32 years, Occ. Housewife,
2. Smt. Indirabai w/o Chindhuji Karpate
Aged about 65 years, Occ. Nil.

3. Ku. Lisha Ravindra Karpate
Aged about 11 years, Occ. Nil
4. Piyush Ravindra Karpate
Aged about 9 years, Occ. Nil
Respondent Nos.3 & 4, Through their
natural guardian respondent No.1
All R/o At Shahalangadi Road, Sant
Dnyaneshwar Ward, Hinganghat,
Tah. Hinganghat, Dist. Wardha
(Original Claimants 1 to 4 on R.A.)
5. M/s. Swayambhu Construction Pvt. Ltd.,
Through its Managing Director,
Aged about – Major, Occ. Owner,
R/o. Yeshwant Nagar, Master Colony,
Hinganghat, Dist. Wardha
(Original Respondent No.1 on R.A.)

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...Respondents

Mrs. Ritu V. Kalia, Advocate for appellant.

Mr. V.K. Gulhane, Advocate for respondent Nos.1 to 4.

CORAM : ROHIT W. JOSHI, J.
DATE : 17.02.2025.

ORAL JUDGMENT:

Heard. **Admit.** The appeal is taken up for final disposal with the consent of the learned Counsel for the rival parties.

(2) The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988, by the original respondent No.2 in Motor Accident Claim Petition No.102/2017 i.e. the New India Insurance Company of the offending vehicle. The respondent Nos.1 to 4 had filed claim petition bearing M.A.C.P. No.102/2017 seeking compensation under Section 166 of the Motor Vehicles Act, 1988, on account of death of Ravindra, husband of the respondent No.1, son of respondent No.2 and father of respondent Nos.3 and 4.

(3) The learned Tribunal has decided the claim petition vide judgment and award dated 01.03.2024 *inter alia* awarding compensation of Rs.60,02,800/- inclusive of no fault liability payable along with interest @ 7.5 % per annum from 09.06.2017 i.e. date of filing of the application till the date of realization of the said amount.

(4) The learned counsel for appellant – Insurance Company has made two contentions can be serviced in the present appeal that (i) that the deceased is survived by four dependents and therefore, 1/4th deduction ought to have been made towards personal expenses as against which 1/5th deduction that is made and (ii) the learned Tribunal ought not to have awarded interest on the future prospects. She places reliance upon the judgment of the Hon'ble Supreme Court in the matter of ***Sarla Verma and Ors. Vs. Delhi Transport Corporation and anr. reported in 2009 (6) SCC 121***, in support of her contention.

(5) Mr. Gulhane, learned counsel for the respondents contends that since there are five family members 20% of the income was expended for and on each of them and therefore, 1/5th deduction made by the learned Tribunal is correct. As regards, the submission of the learned Counsel for the appellant that interest ought not to have been awarded on the future prospects, he contends that future future prospects form a part and parcel of the compensation awarded and therefore, interest is rightly awarded on the component of future prospects.

(6) Having heard the rival submissions, following point arises for my consideration.

(i) Has the learned Tribunal erred in making 1/5th deduction towards personal expenses of the deceased ?

(ii) Has the learned Tribunal erred in granting interest on the component of future prospects ?

(7) **As to point No.1 :-** It is not in dispute that the deceased was survived by four dependents. The Hon'ble Supreme Court has held in the matter of ***Sarla Varma*** (supra) referred to above that in case the deceased is survived by four to six dependents, 1/4th deduction should be made towards personal expenses. The learned Tribunal has erred in making 1/5th deduction, as against 1/4th deduction, which was required to be made.

(8) **As to point No.2 :-** The contention that the learned Tribunal should not have awarded interest on the component of future prospects is already dealt with by this Court in its judgment dated 01.10.2024 delivered in First Appeal No.401/2014 at its Aurangabad Bench. The said judgment dated 01.10.2024 makes a reference to earlier judgment dated 21.09.2023 passed by the learned Single Judge of this Court in the matter of ***Smt. Kalpana Madhu Gavali and Ors. Vs. Maharashtra State Road Transport Corporation, Swargate, Pune*** in First Appeal No.1579/2006. Both

these judgments by the learned Single Judges of this Court have been considered recently in the matter of *Kiran wd/o Bhaskar Shinganjude and Ors. Vs. Saleem Khan s/o Chhajua Khan and anr.* in First Appeal No.315/2020 delivered on 12.02.2025, in which it is held that the component of future prospects is an essential component of just compensation on which interest is required to be paid. In view of the earlier judgment in First Appeal No.315/2020, the contention made by the learned Counsel for the appellant with respect to interest on future prospects is liable to be rejected.

(9) In view of the findings above, the amount of compensation awarded by the learned Tribunal is required to be reduced by sum of Rs.6,72,000/-. The compensation is computed as under :-

Income of deceased	-	Rs.31,385/-
(+) Future Prospects 30%	-	Rs. 9,415/-
		Rs. 40,800/-
(-) 1/4th Personal Expenses	-	Rs. 10,200/-
		Rs. 30,600/-
Rs. 30,600 x 12 annual income	-	Rs.3,67,200/-
Rs.3,67,200/- x 14 multiplier	-	Rs.51,40,800/-
(+) Consortium of 4 persons @ Rs.40,000/-	-	Rs.1,60,000/-
(+) Loss of Estate	-	Rs. 15,000/-
(+) Funeral Expenses	-	Rs. 15,000/-
Total amount	-	Rs.53,30,800/-

(10) In the result, the first appeal is partly allowed in the following terms:

(i) The judgment and award dated 01.03.2024 passed by the learned Member, Motor Accident Claims Tribunal, Hinganghat is modified by holding that the respondent Nos.1 to 4/original claim petitioners are entitled to receive compensation of Rs. 53,30,800/- payable along with interest @ 7.5 % per annum from 09.06.2017 till realization of the said amount.

(ii) The original respondent Nos.1 and 2 are jointly and severally liable to pay the said amount. Clause Nos.3 and 5 of the operative order of award dated 01.03.2024 stands modified accordingly.

(iii) It appears that the appellant has deposited sum of Rs.92,47,667/- pursuant to the order dated 19.08.2024. The amount of compensation as computed above along with accrued interest be disbursed to the respondent Nos.1 to 4 in the proportion as specified in Clause (6) of the operative order/award dated 01.03.2024 passed by the learned Member, Motor Accident Claims Tribunal, Hinganghat and balance amount, if any, be refunded to the appellant.

- (11) No order as to costs.
- (12) Pending application(s), if any, stands disposed of.

[ROHIT W. JOSHI, J.]

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