

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 346 OF 2025

Asha Ashok Chavan and ors. ...Appellants

Versus

Uday Ramchandra Takale and anr. ...Respondents

Mr. Jitendra Gor, for the Appellants.

Ms. Swati Sinha, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 6th JANUARY, 2026.

PC:-

1. This appeal under Section 173 of the Vehicles Act takes exception to the judgment and award dated 17th February, 2022 passed in M.A.C.P No.1502 of 2017, whereby Tribunal has granted compensation of Rs.5,97,000/-. The claimants are aggrieved by the amount of compensation granted and hence, this appeal for enhancement thereof.

2. It is not in dispute that on 7th May, 2017, an accident occurred involving auto-rickshaw bearing No.MH-08-K-3872. The deceased was travelling in the said auto-rickshaw alongwith other passengers. It is alleged that auto-rickshaw was driven by its driver in rash and negligent manner and as a result of the same, the vehicle was dashed to a cement katta. As a result of said accident, deceased fell down on the road and sustained serious injuries. Treatment on him was unsuccessful. It is claimed by the claimants that deceased was employed and earning and claimant No.1 was dependent upon him.

3. Opponent-owner of the vehicle failed to contest the claim and hence, the claim proceeded in his absence. Insurer filed written statement denying the allegations and contentions of the claimants including the manner in which the accident occurred, so as the age, employment and income of the deceased.

4. Learned Tribunal accepted the case of the claimants with regard to the occurrence of the accident, negligence of driver of offending vehicle and entitlement of the claimants to receive compensation. The Tribunal, however, determined compensation by accepting notional income at a rate of Rs.5,000/- per month.

5. This appeal is filed only on the ground that the notional income ought to have been considered at the rate of Rs.8,000/- instead of Rs.5,000/-.

6. Learned counsel for the Appellant submits that considering the fact that the deceased was living in Mumbai, his notional income could be accepted at the rate of Rs.8,000/- per month. He placed reliance on the Hon'ble Supreme Court in the case of *Devendra Kumar Tripathi and ors. Vs. The Oriental Insurance Company Limited and anr., Special Leave Petition (C) No.2195 of 2024*. Learned counsel for the insurer opposed the claim by contending that the burden was on the claimants to prove the claim on probability which has not been done herein.

7. With regard to the other issues decided by the Tribunal, no dispute is raised by the claimants or opponents. The insurer has not challenged the judgment and award. Thus, only issue remains for consideration of this Court is as to whether the case of the

claimants about notional income at Rs.8,000/- per month instead of Rs.5,000/- per month, deserves acceptance.

8. It is not in dispute that the deceased was staying in Mumbai and his wife was dependent upon him. In such circumstances, there would be no impediment about the notional income at the rate of Rs.8,000/-.

9. There is no dispute about the fact that Tribunal applied appropriate multiplier and compensation granted on other heads cannot be faulted. Having regard to the said fact, the judgment and award passed by the Tribunal deserves modification.

10. The claimants therefore would be entitled to receive the following compensation:-

Sr. No.	Particulars	Amount
1.	Loss of Dependency Rs.80,000/- x 11	Rs.8,80,000/-
2.	Loss of Future Income (15% as per Pranay Shetty on Notional Income of Rs.8,000/- till age upto 70 years)	Rs.2,30,400/-
3.	Funeral Expenses	Rs.16,500/-
4.	Loss of Estate	Rs.16,500/-
5.	Loss of Consortium	Rs.44,000/-
6.	Loss of Filial Consortium being two sons of the deceased	Rs.80,000/-
	Total	Rs.14,15,900/-

11. The First Appeal, therefore, stands partly allowed.
12. Appellants would be entitled to receive a sum of Rs.14,15,900/- with interest at 5% from the date of filing of the claim petition till realization of amount.
13. Appellants shall pay additional court fees as per rules.

(R. M. JOSHI, J.)