



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1878 OF 2021

1. Suvarnamala W/o. Govind Bombade,
Age ; 29 years, Occu. : Household,
2. Aaryan S/o. Govind Bombade,
Age : 11 years, Occu. : Education,
3. Sayali D/o Govind Bombade,
Age : 06 years, Occu. : Education,
(Appellans Nos.2 & 3 are minors,
Representing through Natural
Guardian Mother i.e. Appellant No.1)
4. Ram S/o. Dnyanoba Bombade,
Age : 66 years, Occu. : Nil.,
5. Surekha W/o. Ram Bombade,
Age: 61 years, Occu. : Nil.,

All R/o. Venkatesh Nagar,
Amba Hanman Colony No.3,
Ambejogai Road, Latur,
Tq & Dist. Latur

... Appellants
(Orig. Claimants)

Versus

1. Tanaji S/o. Waghambhar Mitkari,
Age : Major, Occu. : Business,
R/o. Janwal, Tq. Chakur,
Dist. Latur (Owner of Tempo)
2. Branch Manager,
Bajaj Allianz General Insurance Co. Ltd.
Shop No. 32 & 34,
Navander Arcade, Kava Road,
Opp. Market Yard, Gate No.2,
Latur - 413 512

... Respondents.
(Orig. Defendants)

.....
Mr. Ram S. Shinde, Advocate for Appellants.
Mr. Mohit Deshmukh, Advocate for Respondent No.2.
.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 13 AUGUST 2025
PRONOUNCED ON : 26 AUGUST 2025

JUDGMENT :

1. Original claimant nos.1 to 5, who instituted M.A.C.P. No.254 of 2013 under section 166 of Motor Vehicles Act, are dissatisfied by grant of compensation by learned Ad-hoc District Judge-1 & Ex-Officio Member, Motor Accident Claims Tribunal, Latur dated 06.05.2019.

BRIEF FACTS

2. Claimants, who are heirs of deceased Govind filed above claim petition on the premise that on 27.08.2013, while deceased was proceeding on his motorcycle bearing No. MH-24-W-293 over Chakur to Latur road, while in the vicinity Mahalangra Pati, tempo bearing no.MH-24-J-6301 coming from opposite direction in excessive high speed and which was being driven in rash and negligent manner, gave dash to the motorcycle. Govind suffered fatal injuries and died on the spot. Crime was registered against tempo driver bearing no. 160 of 2013 for offence punishable under sections 279 and 304-A of Indian Penal Code.

3. Wife, children and parents of deceased Govind set up a case before Accident Claims Tribunal that deceased Govind was the sole bread earner. He worked as a Supervisor in Indus Towers Limited and earned salary of Rs.29,562/- per month and thereby maintaining himself and his family. Due to untimely accidental death, they have lost very source and under various heads they set up a claim of Rs.1,00,00,000/-.

4. Above claim was contested by original respondent nos.1 and 2, denying the above case.

5. Learned tribunal framed issues, appreciated the oral and documentary evidence and finally held claimants to be entitled for compensation to the tune of Rs.29,12,440/- with interest at the rate of 9% per annum. Respondent no.2 was specifically directed to satisfy the award and then to recover the same from respondent no.1.

6. Before this court, learned counsel for appellants claimants would submit that, there is no serious challenge to the other issues and findings and present appeal is confined only to the aspect of quantum which according to claimants is inadequate and unjust. Learned counsel would submit that, claimants had proved that deceased Govind worked as Supervisor. His appointment letter as well as salary slips were placed on record to substantiate the

salary income. He pointed out that, annexures clearly shows that salary earned by deceased Govind was over Rs. 26,000/- per month and he used to regularly gained 10% additional income. The Manager of the company where deceased was working also examined, however, learned tribunal failed to consider such evidence and only considered salary of Rs.20,000/-. According to him, even calculations made by tribunal for compensation are improper. Unnecessarily deductions of 25% are made for no reason. Further, again deductions are made considering strength of dependency and even when deceased being 27 years of age, 50% future prospects ought to have been considered as he was below 40 years of age. Learned counsel also expresses dissatisfaction for rate of interest awarded by tribunal i.e at the rate of 9%. For all above reasons, compensation sought to be enhanced by taking into account full salary as per salary certificate, additional income and by applying correct dependency, then making necessary deductions and to award future prospects by considering the age as 27 years.

7. In answer to above, learned counsel for insurance company would submit that, in fact, tribunal has been liberal in granting compensation. Compensation awarded is in consonance with quality of evidence. Learned counsel pointed out that, in fact, deceased was a probationer and not a confirmed employee. Therefore,

according to him, correct computation is done by considering number of days for which services were rendered. That, documents adduced by claimants itself were relied. Deceased was merely 12th standard passed. Lastly, he submitted that in absence of evidence about fix salary, consideration of Rs. 20,000/- per month salary is also rather exorbitant.

8. After hearing the submissions advanced by both sides, admittedly, here, this court is only called upon to interfere only on the point of quantum of compensation awarded by learned tribunal.

9. Re-appreciated the evidence. In trial court claimants asserted that deceased Govind by rendering service in Indus Towers Limited earned salary of Rs.29,500/-. In support of service, Exh.48 which is a service agreement and Exh.49 is the salary certificate are placed on record and one Shrikant Shinde has been examined, who is also an employee of above company.

Exh.48 clearly shows that deceased Govind was under probation period and it further appears that deceased joined barely 20 days prior to the unfortunate accident. Though taking the aspect of deceased to be on probation and he had worked only for 20 days, aspect of he to be in employment and earning salary cannot be denied.

10. Learned tribunal, in paragraph 21, has held that deceased was on probation and was not permanent employee and therefore claimants are not entitled to utilize full benefits of enumeration and there is need for 25% deduction from salary, has no logical foundation. Proper basis for computing compensation is the loss of financial dependency. The salary slip is considered an effective piece of evidence to establish the income of deceased. Though probation period may have a bearing on job security, it would not negate the factum of deceased earning salary during his lifetime.

11. Resultantly, taking Exh.49 into account net salary received by deceased is shown to be Rs.20,500/- and claimants have also adduced evidence of witness Shrikant Shinde, in the considered opinion of this court, there ought not to have been 25% deduction from the above salary. It would be too early and unreasonably to presume that deceased would not have been made permanent, more particularly, in the light of nature of beneficial legislation. Therefore, the monthly income is considered as Rs.20,500/- per month.

12. In view of the ratio laid down in *National Insurance Company Limited v. Pranay Sethi and Ors.*, 2017 SCC Online SC 1270 and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru*

Ram and Others, (2018) 18 SCC 130, claimants are entitled for Rs. 40,000/- each, i.e. 80,000 /- plus 20% (Rs.16,000/-) which comes to Rs.96,000/- towards consortium and loss of love and affection.

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

Sr. No.	Heads	Amount (Rs.)
1.	Annual Income (Rs.20,500 x 12)	2,46,000/-
2.	Future Prospects 50% i.e. 1,23,000 (2,46,000 + 1,23,000)	3,69,000/-
3.	Less 1/4 deduction towards personal expenses. (Rs. 3,69,000 – Rs 92,250)	2,76,750/-
4.	Multiplier of 17 (2,76,750 X 17) (Loss of dependency)	47,04,750/-
5.	Loss of consortium and love and affection	96,000/-
6.	Transportation of dead body (as per tribunal)	10,000/-
7.	Funeral Expenses (as per tribunal)	10,000/-
8.	Total compensation to be paid	48,20,750/-
9.	Compensation awarded by Tribunal	29,12,440/-
10.	Total Enhanced Compensation (i.e. Rs.14,36,746 – 9,22,746)	19,08,310/-

. In the result, following order is passed :-

ORDER

- (i) Appeal is partly allowed with proportionate costs.
- (ii) Impugned judgment and award dated 06.05.2019, passed by

the learned Ad-hoc District Judge-1 & Ex-Officio Member, Motor Accident Claims Tribunal, Latur in M.A.C.P. No.254 of 2013 is modified.

(iii) Respondent no.2 - insurance company to pay enhanced compensation of Rs.19,08,310/- to claimants within 12 weeks from today along with interest @ 9% 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, J.)