

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

119 FIRST APPEAL NO.776 OF 2022

SHAIKH TARANNUM BEGUM WD/O SHAIKH MOHAMMED SADEK  
AND ORS

**VERSUS**

THE NEW INDIA ASSURANCE CO. LTD., THR ITS BRANCH  
MANAGER, AURANGABAD AND ORS

...  
Advocate for Appellants : Mr. Shaikh Kayyum Najir  
Advocate for respondent No.1 : Mr. A.S. Usmanpurkar  
....

**CORAM : S. G. DIGE, J.  
DATE : 29.08.2022**

**ORDER :-**

Being aggrieved and dissatisfied by the judgment and award passed by learned Member, Motor Accident Claims Tribunal, Aurangabad, the appellants have preferred this appeal, seeking enhancement of compensation.

2. Brief facts of the case are as under :-

The accident took place on 10<sup>th</sup> October, 2018 at about 10:40 p.m on Aurangabad-Kannad Road. At the time of the accident deceased Shaikh Mohammed Sadekh s/o Shaikh Mohammed Musa was driving a loading Rickshaw bearing

Registration No, MH-20-DE-3832, coming from Chalisgaon and going towards Aurangabad. When the said Auto Rickshaw reached Seva Dhaba, Kannad, at that time, one Truck bearing Registration No. AP-02-TA 1116 came from Aurangabad was in excessive speed. It was being driven in rash and negligent manner. It gave dash to the Auto Rickshaw due to which accident took place. Deceased Shaikh Mohammad Sadekh received serious injury on several parts of his body and died on the spot.

3. Crime was registered against driver of offending truck. The appellants ( original claimants) filed claim petition before learned Member, Motor Accident Claim Tribunals, Aurangabad, (for short, "the Tribunal) for getting compensation.

4. Considering evidence on record and after hearing the parties the Tribunal has awarded compensation. The said judgment and order is under challenge in this appeal.

5. It is the contention of learned counsel for the appellants that the Tribunal has granted consortium amount of Rs. 40,000/-. There were six claimants at the time of filing the claim petition. After passing the order by the Tribunal, original claimant No.5 father of the deceased, died. In view of the Hon'ble Apex Court's Judgment in the case of **Magma General**

**Insurance Co. Ltd Vs. Nanu Ram 2018 SCC OnLine SC 1546 in Criminal Appeal No. 9581 of 2018**, the appellants are entitled for Rs. 40,000/- each as a consortium amount as they are the wife, son, daughters & the mother of the deceased.

5. The learned counsel for the respondents submits that the Tribunal has considered all the aspect and has passed a reasoned order which is legal and valid.

6. I have heard both the learned counsel. Perused the judgment and award passed by the Tribunal.

7. Admittedly, the Tribunal has granted Rs. 40,000/- as consortium amount. The Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd Vs. Nanu Ram (supra)** has held that there are three types of consortium i.e. consortium of parental, consortium of spouses, and filial consortium. The appellants are wife, son, daughter and mother of the deceased. Hence, they are entitle for Rs. 40,000/- each as consortium. Father of deceased died, Rs. 40,000/- amount has already been granted. Hence I pass the following order.

**ORDER**

- (I) Appeal is allowed.
- (ii) The appellants are entitled for enhancement of Rs. 2,00,000/- ( Rupees Two Lakhs) with interest at the rate of 6% p.a. from the date of filing of application till realization of the amount.
- (iii) Appellants are permitted to withdraw enhanced amount.

**( S.G. DIGE,)  
JUDGE**

ysk/