

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

**FIRST APPEAL NO. 2891 OF 2016**

United India Insurance Company Ltd.,  
The Manager,  
Shri Dinesh Complex, 2<sup>nd</sup> floor,  
Post Box No.23, Agra Road, Deopur, Dhule

Through its Authorized Signatory/  
Divisional Manager, Divisional office,  
Osmanpura, Aurangabad

**... APPELLANT**  
(Ori. Resp. No.3)

**VERSUS**

1. Rekhabai Manohar Bhil (Sonawane),  
Age : 35 years, Occu. : Household,
2. Gokul Manohar Bhil (Sonawane),  
Age : 16 years, Occu. : Education,
3. Jitendra Manohar Bhil (Sonawane),  
Age : 14 years, Occu. : Education,
4. Pavan Manohar Bhil (Sonawane),  
Age : 12 years, Occu. : Education,
5. Ajay Manohar Bhil (Sonawane),  
Age : 8 years, Occu. : Education,

Applicant No.1 is natural guardian of  
applicants Nos.2 to 5

6. Jagan @ Jagannath Eknath Bhil (Sonawane),  
Age : 73 years, Occu. : Agriculture (died),

7. Damotabai Jagan @ Jagannath Bhil (Sonawane),  
Age : 68 years, Occu. : Household,

All R/o. : Palasdade, Tq. Amalner, Dist. Jalgaon

8. Mahendra Babulal Chaudhari,  
Age : Major, Occu. : Driver,  
R/o. : Parola road, Manmad Gin,  
near Water Tank, Dhule, Dist. Dhule,

9. Dinkar Omkar Netkar,  
Age : Major, Occu. : Business,  
R/o. : Mohadi, Tq. & Dist. Dhule

**... RESPONDENTS**

(Resp. No.1 to 7 - original  
claimants & Resp. No.8 &  
9-original resp. Nos.1 & 2)

Mr. S.S. Dargad h/f. Mr. S.G. Chapalgaonkar - Advocate for  
Appellant

Mr. V.P. Patil - Advocate for Respondent Nos.1 to 5 and 7

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

**DATE : 8<sup>th</sup> September, 2022**

### **JUDGMENT :**

. Being aggrieved and dissatisfied by the judgment  
and award passed by Motor Accident Claims Tribunal,  
Amalner the appellant - original respondent No.3 has  
preferred this appeal.

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

On 18<sup>th</sup> October, 2012 deceased Manohar Jagannath

Bhil was proceeding on motorcycle from Amalner to Dhule. At that time Omani car bearing No.MH-18-M-5550 came from opposite direction and gave dash to the motorcycle of deceased. Due to said dash deceased sustained injuries. The original claimants - respondent Nos.1 to 7 filed claim petition for getting compensation before the Motor Accident Claims Tribunal, Jalgaon (*for short 'the Tribunal'*). Considering the evidence on record and after hearing the parties, the Tribunal has awarded compensation. The said judgment and order is under challenge.

3. It is contention of learned Counsel for appellant that, the Tribunal has granted exorbitant compensation under various heads. The Tribunal has granted Rs.1,00,000/- to each children towards love and affection. The funeral expenses are awarded of Rs.25,000/-, it should be Rs.15,000/- hence, requested to allow the appeal.

4. It is contention of learned Counsel for respondents that, the Tribunal has awarded compensation on the basis

of evidence led before the Tribunal. The order passed by the Tribunal is legal and valid.

5. I have heard all the learned Counsel. Perused judgment and award passed by the Tribunal.

6. The issue involved in this appeal is compensation awarded by the Tribunal under the head of love and affection, loss of love, loss of consortium and loss of love and care. The Tribunal has relied on the judgment of the Hon'ble Apex court in the case of ***Rajesh Vs. Rajbir Singh and Others 2013 ACJ 1403*** and has awarded Rs.25,000/- towards funeral expenses. Similarly, amount of Rs.1,00,000/- to the wife of deceased towards loss of consortium and minor children of the deceased Rs.1,00,000/- each to the four minor children of deceased towards loss of love and care. Amount of Rs.15,000/- is awarded to the mother towards loss of love and care. On that basis the Tribunal has awarded total compensation of amount of Rs.12,23,000/-.

7. In my view the pecuniary loss is awarded of

Rs.6,48,000/- which is not disputed by the appellant. As per view taken by the Hon'ble Apex Court in the case of ***Magma General Insurance Company Ltd. Vs. Nanu Ram*** reported in ***2018 SCC OnLine SC 1546***, the respondents are entitle for consortium amount of Rs.40,000/- each, (i.e. Rs.40,000 x 6 = Rs.2,40,000/-) instead of amount of Rs.1,00,000/- each. I am considering the funeral expenses amount of Rs.15,000/- as against the funeral expenses amount of Rs.25,000/- granted by the Tribunal.

8. In view of the above calculations claimants are entitle for the compensation of Rs.9,03,000/-. The Tribunal has awarded Rs.12,23,000/-. The excess compensation is refunded to the appellant. In view of the above, I pass the following order :-

### **ORDER**

- (a) Appeal is partly allowed.
- (b) Appellant – Insurance Company is entitled to get refund of amount of Rs.3,20,000/- along-

with accrued interest thereon.

- (c) Respondents/claimants are entitled for compensation of Rs.9,03,000/- @ 6% p.a. from the date of filing petition till its realisation.
- (d) Respondents/claimants were already permitted to withdraw amount of Rs.4,00,000/- out of deposited amount vide order dated 3/8/2018.
- (e) After deducting amount of Rs.4,00,000/-, claimants/respondent Nos.1 to 7 are permitted to withdraw the balance amount along-with accrued interest thereupon.

**[S.G. DIGE, J.]**