

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 756 OF 2001

- | | | | |
|----|-----------------------------------|-----------------------|--|
| 1. | Smt. Aruna Balasaheb Jadhav, |) | |
| | Age 34 years, Occu. Household |) | |
| | |) | |
| 2. | Sandeep Balasaheb Jadhav, |) | |
| | Age 15 years, Occu. Education |) | |
| | |) | |
| 3. | Nitin Balasaheb Jadhav, |) | |
| | Age 11 years, Occu. Education |) | |
| | |) | |
| 4. | Savita Balasaheb Jadhav |) | |
| | Age 9 years, Occu. Education |) | |
| | |) | |
| 5. | Bhiku Gopal Jadhav |) | |
| | Age 66 years, Occu. Nil |) | |
| | |) | |
| 6. | Smt. Tarabai Bhiku Jadhav |) | |
| | Age 59 years, Occu. Household |) | |
| | All resident of Vathar (Kiroli), |) | |
| | Tal. Koregaon, Dist. Satara |) | |
| | (Nos. 1 to 4) |) | |
| | since minor through their |) | |
| | Natural Guardian Appellant No. 1. |)...Appellants | |
| | |)(Original Claimants) | |

Versus

- | | | | |
|----|----------------------------------|---|--|
| 1. | United Indian Insurance Co. Ltd. |) | |
| | Satara Branch, 180, |) | |
| | Raviwar Peth, Satara. |) | |
| | |) | |
| 2. | Bhivaji Babu Shinde, |) | |
| | Age adult, Occu. Moror owner, |) | |
| | Resident of Sundeo Chawl, |) | |
| | Room No. 13, Bhawadi, |) | |
| | Opp. Mochhi Market, |) | |
| | Ghatkopar (West), Bombay-84. |) | |

3. United India Insurance Co. Ltd.,)
Branch Ghatkopar,)
(Summons to be served on)
Division Office at)
Gramoddar Building, Powainaka.)...Respondents

Mr. Sangramsingh Yadav alongwith
Miss. Harvinder Kaur Rogi, Advocate for Appellants.
Miss. M. S. Sawant, holding advocate
Miss. Varsha Chavan, advocate for respondents.

CORAM : S. G. DIGE, J.

DATE : 9th DECEMBER, 2022.

JUDGMENT :

1. Being aggrieved and dissatisfied with the Judgment and order passed by Motor Accident Claim Tribunal, Satara Appellants / Original claimants preferred this appeal.

2. Brief facts of the case are as under -

On 28th April, 1990 the deceased Balasaheb Jadhav was traveling in Tempo bearing registration No. MXY-1653. When the said Tempo reached near village Masave, the truck bearing registration No. MTL- 6602 came from the opposite direction with high speed and gave dash to the Tempo. On account of said collusion, the Tempo was totally smashed and 03 persons, including

the deceased, died on the spot. Appellants / original claimants filed claim petition for getting compensation before Motor Accident Claim Tribunal, Satara (for short 'the Tribunal'). The Tribunal has awarded compensation of Rs. 1,25,000/- (Rupees One Lakh Twenty Five Thousand Only). Against the said Judgment and order this appeal.

3. It is contention of the learned counsel for the appellant that the deceased was owner of Metador and was earning more than Rs. 2,500/- to 3,000/- rupees per month. But Tribunal has considered Rs. 800/- per month only. Learned counsel further submits that no multiplier is applied while calculating compensation as well as consortium amount and funeral expenses and loss of estate amount are not awarded. As per the view of the Hon'ble Apex Court in **Smt. Sarla Varma and Ors. Vs. Delhi Transport Corporation and Anr., (SC) 2009** multiplier needs to be applied while calculating compensation hence requested to allow the appeal.

4. It is contention of learned counsel for Respondents that no income proof was produced before the Tribunal to prove that deceased was earning Rs. 2,500/- to Rs. 3,000/- per month. On the basis of evidence on record the Tribunal has rightly considered the income of deceased which is proper.

5. I have heard both learned counsel. Perused Judgment

and order passed by the Tribunal. The issue involved in this appeal is the income of deceased considered by the Tribunal is on lower side. To prove the income of deceased, claimant No. 1 Aruna Jadhav has stated that her husband, deceased was working as a driver and he used to earn Rs. 2,500/- to Rs. 3,000/- per month by plying the Metador. While considering the income of deceased the Tribunal has observed that there is no evidence produced on record to prove the income of deceased was Rs. 2,500/- to Rs. 3,000/- per month. Hence, the Tribunal has considered monthly income of deceased at Rs. 1200/- per month and after deducting personal expenses it has been considered Rs. 800/- per month. I do not find any infirmity in it. It has come on record that the deceased was 37 years old at the time of accident. Hence, multiplier of 15 is the proper multiplier. The consortium amount awarded is of Rs. 10,000/- to the wife of the deceased. As per the view of Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram Alias Chuhru Ram, (2018) 18 SCC, 130** family members of the deceased are entitled amount of Rs. 40,000/- each as consortium amount. The Tribunal has not awarded future prospects. As per the view of Hon'ble Apex Court in **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017), 16 SCC 680** applicants are entitle for future

prospects. The tribunal has awarded Rs. 5000/- for funeral expenses. It should be Rs. 15000/- for funeral expenses and Rs. 15000/- for loss of estate. Considering above calculations, the appellants are entitled for following enhancement.

800 x 12	=	Rs. 9,600/- (per month income)
Add 40%	+	Rs. 3,840 (F. P.)

	=	Rs. 13,440/-
Multiplier	x	Rs. 15/-

	=	Rs. 2,01,600/-
Additional consortium +		Rs. 1,76,000/-
Funeral expenses +		Rs. 15,000/-
Loss of estate +		Rs. 15,000/-

Total	=	Rs. 4,07,600/-
Less already granted by Trial Court	-	Rs. 1,25,000/-

Net Total	=	Rs. 2,82,600/-

5. Applicants are entitled for enhanced compensation of Rs. 2,82,600/- (Rupees Two Lakh Eighty Two Thousand and Six Hundred Only).
6. In view of above, I pass following order.

ORDER

1. Appeal is allowed.
2. Appellants are entitled for enhanced compensation of Rs. 2,82,600/- (Rupees Two Lakh Eighty Two Thousand and Six Hundred Only) with interest @ 8% per annum from the date of filing of application till realization of the amount.
3. The respondents are directed to deposit enhanced amount within 8 weeks.
4. After deposit of amount, appellants are permitted to withdraw the deposited amount alongwith interest accrued thereon.
5. If respondents have already deposited award amount as per the Tribunal's order, it be adjusted with the amount awarded by this court.

(S. G. DIGE, J.)