**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**FIRST APPEAL NO. 587 OF 2016**

1. Shobha Sanjay Patil )
Age : 37 years, Occ: Agri/Household, )
2. Akash Mansing @ Milind )
Age : 19 years, Occ : Education )
3. Shubhada Sanjay Patil )
Age : 19 Years, Occ : Education )
4. Suraj Sanjay Patil )
Age : 17 years, Occ : Education, )
Appellant No.4 through his natural )
Guardian mother Appellant No.1 )
All r/o. Post Old Pargaon, Tal. ) ...Appellants
Hatkananagle, Dist: Kolhapur ) (Org. Claimants)

Versus

1. The Secretary )
Maharashtra State Road Transport )
Corporation (Summons to Depo )
Manager, CBS Kolhapur) )
2. Internal Insurance Fund )
Vahatuk Bhavan, Mumbai )
Summons to Depot Manager )
CBS Kolhapur. ) ….Respondents.

Mr. Jayant J Bardeskar, Advocate for the Appellants.
Ms. P. M. Bhansali i/b. Mr. G. S. Hegde, Advocate for the Respondent No.1.

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

**DATE : 16th FEBRUARY 2023.**

**Judgment :**

1. This appeal is filed for enhancement of compensation.

2. Learned counsel for the appellants submits that the Tribunal has deducted 30% amount for income-tax. The income of the deceased was below Rs.3,00,000/- per year, then, the deduction should be 10% and not 30%. The Tribunal has not considered this fact and deducted more amount for income-tax. Hence, requested to allow the appeal.

3. Learned counsel for the respondent No.1 submits that the Tribunal has considered all the aspects and, on that basis, the Tribunal has deducted 30% income-tax, which is proper. The order passed by the Tribunal is legal and valid.

4. I have heard both learned counsel, perused the judgment

and order passed by the Tribunal. The Tribunal has considered monthly income of the deceased @ Rs.24,977/-. The yearly income of the deceased comes to Rs.2,99,724/-. It is brought to the notice of this Court that in the year 2011, the income up to Rs.1,80,000/- was exempted under the Income Tax Act. If this amount is deducted from the yearly income i.e. Rs.2,99,724//-, it comes to Rs.1,19,724/-. The 10% income-tax on this amount, comes to Rs.11,972/-. The net income of the deceased, after deducting the income tax, comes to Rs.2,87,752/- (Rs.2,99,724/- less Rs.11,972/-). 30% future prospects comes to Rs. 86,325/-, so the total comes to Rs.3,74,077/-. 1/4th deduction for personal expenses comes to Rs.2,80,558/- (Rs.3,74,077/- less Rs.93,519/-). At the time of the accident, the deceased was 46 years old. The proper multiplier is 13. If Rs.2,80,558/- is multiplied by 13, it comes to Rs.36,47,254/-. The Tribunal has considered the amount of Rs.25,000/- for funeral expenses, Rs.25,000/- of loss of estate and Rs.1,00,000/- for love and affection. As per the view of the Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC),*** each claimant is entitled consortium amount of Rs.40,000/-. There are three claimants, therefore, I am considering Rs.1,20,000/- as consortium amount, Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate. So, the total comes to Rs.1,50,000/-.

5. Both learned counsel submits that an amount of Rs.1,00,000/- awarded under the head of love and affection cannot be considered as amount under head of consortium is granted. Hence, considering the above calculations, the total amount comes to Rs.37,97,254/-. The Tribunal has awarded an amount of Rs.31,77,348/-, if this amount is deducted from Rs. 37,97,254/-, it comes to Rs. 6,24,906/-. The claimants are entitled for this enhanced amount.

6. In view of the above, I pass following order :

1. The appeal is allowed.

2. The appellants/claimants are entitled for an amount of Rs.37,97,254/- @ 7.5% interest per annum from the date of filing of the claim petition till realisation of the amount.

3. The claimants are permitted to withdraw the amount deposited by the respondents along with accrued interest thereon.

4. The respondents are directed to deposit enhanced amount of Rs.6,24,906/- along with interest accrued thereon within four weeks after receipt of this order.

The appeal stands disposed of.

8. Pending applications, if any, stand disposed of.

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