

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

FIRST APPEAL NO. 2786 OF 2007

- | | | |
|-----------------------------------|---|-------------------|
| 1. Tukaram Shankar Jadhav |) | |
| Age: 47 years, Occu: Nil. |) | |
| 2. Sau. Lata Tukaram Jadhav |) | |
| Age: 42 years, Occu: Household, |) | |
| Both R/o. 1124, Juni Police Line, |) | |
| Solapur |) |Appellant |
| | | (Org. Applicants) |

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DHUDUM

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Versus

- | | | |
|-----------------------------------|---|------------------|
| 1. M/s. XPS Cargo Service |) | |
| R/o. 17/6, Mathora Road, |) | |
| Faridabad (Haryana). |) | |
| 2. The Oriental Insurance Company |) | |
| Mission Road, Bangalore |) | |
| (Summons be served on its |) | |
| Divisional Manager, Solapur |) | |
| at Solapur). |) |Respondent |
| | | (Org. Opponents) |

Mr. R. S. Alange for the Appellant.
Ms. Poonam Mittal for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th DECEMBER, 2023.

Oral Judgment. :

1. By this appeal, the Appellants are seeking enhancement of compensation.
2. It is contention of learned counsel for the Appellants that tribunal has deducted 2/3 amount for personal expenses, it should be 1/2. Learned counsel further submitted that the tribunal has applied multiplier of 17, it should be 18. The tribunal has not awarded future prospect and consortium amount hence, requested to allow the Appeal.
3. It is contention of learned counsel for the Respondent No.2/Insurance Company that while awarding compensation, the tribunal has considered all the aspects and on that basis tribunal has passed judgment and order which is legal and valid. No interference is required in it.
4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Solapur (for short "the Tribunal").

5. While awarding compensation, the tribunal has deducted 2/3 amount for personal expenses. The deceased was a bachelor, it should be ½. The tribunal has considered monthly income of Rs.2,900 but has not awarded future prospects. As per the view of Hon'ble Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)** the claimants are entitled 50% future prospects. At the time of accident, the deceased was 21 years old. The tribunal has applied multiplier of 17, it should be 18. Hence, I am considering multiplier of 18. The tribunal has awarded consortium on lower side. As per the view of Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)** each claimants are entitled to Rs.48,000/- as consortium amount and Rs.18,000/- for funeral expenses and Rs.18,000/-for loss of estate.

6. Considering the above, claimants are entitled for following compensation.

Monthly Income	Rs.2,900/-
50% future prospects	Rs.1450/-
Total monthly income	Rs.4350/-
Annual Income Rs.4350/- X 12	Rs.52,200/-
Deduction 50% for personal expenses	Rs.26,100/-

Rs.26,100/- X 18 (multiplier)	Rs.4,69,800/-
Consortium (Rs.48,000/- X 2 {claimants})	Rs.96,000/-
Future Prospects	Rs.18,000/-
Loss of Estate	Rs.18,000/-
Total amount	Rs.6,01,800/-
Less compensation awarded by the Tribunal	Rs.2,04,200/-
Enhanced compensation amount	Rs.3,97,600/-

7. In view of above, I pass following order.

ORDER

- i. The Appeal is allowed.
- ii. The claimants are entitled for enhanced amount of Rs.3,97,600/- @ interest of 7.5% from the date of filing claim petition till realisation of the amount, out of this amount Rs.1,32,000/- is of consortium amount. The claimants are entitled interest @ 7.5% on this amount from 1st November, 2017 till realisation of the amount.
- iii. The Respondent No.2/Insurance Company shall deposit the enhanced amount along with accrued interest within six weeks after receipt of the order.
- iv. The claimants are permitted to withdraw the

deposited amount along with accrued interest thereon.

8. Learned counsel for the Respondent No.2/Insurance Company undertakes to file Vakalatnama.

9. Pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)