

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

FIRST APPEAL NO. 244 OF 2023

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United India Insurance Co. Ltd.
Through its Divisional Office,
Janata Shopping Centre,

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)
)....Appellant
(Original Opp. No.3)

Versus

1. Mr. Nitin Madhukar Padule
Age: 28 years, Occ:- Nil

)
)....Respondent
No.1 to 2 Original
Claimants

2. Mr. Satish Madhukar Padule
Age:- 24 years, Occ:- Education,

Both R/O:- Chandaj, Tal:- Madha,
Dist:p Solapur.

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3. Mr. C. Kaliyappan Chikkanna Gounder
Age:- 45, Occ:- Driver,
R/o:-20, Anjukuzhi Patty, Vembarpatty,
PO:- Dindigul, Tamil Nadu.

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4. Mr. U. P. Nallasami S/o Pallanisamy
Age:- 45, Occ:- Transport,
R/o:- 4/1, Tirpur Road, Kuttimakadu,
Uttukuli R. S., Uttukuli Taluka
Tirupur District, Tamil Nadu

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)....Respondents

Mr. Amol Gatne for the Appellant
Mr. B. A. Lawate for the Respondent No. 1 & 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th MARCH 2023.

JUDGMENT. :

1. The issue involved in this appeal is agricultural income considered by the tribunal is on higher side.
2. It is contention of learned counsel for the appellant that the tribunal has considered pension of deceased at Rs. 21,663/- and agricultural income at Rs. 2,00,000 per year, which is exorbitant and excessive and on higher side.
3. Learned counsel further submit that the tribunal ought to have considered the fact that the agricultural income cannot be considered as a income because after the death of deceased the agricultural income is getting to his family. The tribunal should have considered supervisory income. Hence, requested to allow the appeal.
4. Learned counsel for the claimants submits that it has come on record that deceased was getting income from agricultural land and on that basis the tribunal has considered the income. Hence, no interference is required in it.

5. I have heard both learned counsel, perused judgment and order passed by the Motor Accident Claim Tribunal, Solapur (for short 'the tribunal'). To prove agricultural income of deceased. The claimant no. 1 Nitin Padule, has stated that deceased was his father and they have one hector 80 R fertile land. In cross-examination this witness admitted that I do not have any account of the income of agricultural land. I do not have any proof to show that my father was getting income from agricultural land and it is true that as per 7/12 extract filed by this witness his father own's 20 R agricultural land. In my view when this witness admitted in cross-examination that his father own's 20 R agricultural land and no documents in respect of income of Rs.2,00,000/- was produced before the tribunal. The amount of Rs. 2,00,000/- has considered by the tribunal is on higher side. Hence I am considering Rs.5,000/-per month income for agriculture supervision it comes to Rs. 60,000/- per annum. Considering above calculations the claimants are entitled for following compensation.

Per month pension	Rs. 21,633/-
per month for Agricultural supervision	Rs. 5,000/-
Per month Income	Rs. 26,633/-
Per annum income	Rs. 26,633 X 12 = Rs. 3,19,596

1/3 deduction	Rs. 03,19,596/3 (1/3 deduction)
Multiplier	----- Rs. 02,13,064 X 11
Pecuniary loss to dependents	Rs. 23,43,704/-
10% Future Prospects	+ Rs. 02,34,370/-
Funeral Expenses	+ Rs. 15,000/-
Loss of Consortium	+ Rs. 40,000/-
Loss of estate	+ Rs. 15,000/-
Total amount	----- Rs. 26,48,074/-

The tribunal has awarded amount of Rs. 37,77,440/- as per the calculation of this Court amount comes to Rs. 26,48,074/- if this amount deducts from the amount considered by the tribunal, it comes to Rs. 11,29,366/- this is excess amount.

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

ORDER

- i. Appeal is allowed .
- ii. The claimants are entitled for the compensation of Rs. 26,48,074/- @ rate of interest awarded by the tribunal.
- iii. The appellant is permitted to withdraw

the excessive amount of Rs. 11,29,366/- along with accrued interest thereon.

iv. The claimants are permitted to withdraw the amount along with accrued interest thereon.

v. The statutory amount be transmitted to the tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

(SHIVKUMAR DIGE, J.)