

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.896 OF 2019

1. Smt. Devkubai Kasinath Mhatre }
2. Miss Shubhangi Kashinath Mhatre }
3. Mr Atul Kashinath Mhatre }
4. Miss Jagruti Kashinath Mhatre }
5. Master Gurunath Kashinath Mhatre }
6. Smt.Vithabai Dhaya Mhatre }
All are R/at Thalekhar, }
Post Aamtem, Tal. Pen, District-Raigad }

...Appellants

Versus

1. Shri.Shankar Ramchandra Bhagat }
At & Post Karade, Taluka.Shirul }
District-Pune }
2. The New India Assurance Co. Ltd }
87, M.G. Road, Fort, }
Mumbai-400 001. }

...Respondents

Mr.T.J. Mendon, for the Appellant.
Ms.Poonam Mital, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29 MARCH 2023

JUDGMENT :-

. The issue's involved in this Appeal are the Tribunal has not awarded amount for future prospects, consortium and deduction of amount for personal expenses.

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2. It is contention of the learned counsel for the Appellant that the Tribunal has considered monthly income at Rs.12,276/- per month. While deducting the personal expenses, the Tribunal has deducted 1/3rd amount for personal expenses. There are six Claimants, it should be 1/4th. The learned counsel further submits that the Tribunal has awarded consortium and amount for funeral expenses on lower side. Hence, requested to allow the Appeal.

3. The learned counsel for Respondent-Insurance Company submits that while awarding compensation the Tribunal has considered all the aspects and on that basis compensation is awarded, no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Alibag (for short 'the Tribunal').

5. The Tribunal has deducted 1/3rd amount for personal expenses. There are six Claimants. Hence, it should be 1/4th. So, I am considering personal deduction amount as 1/4th. The Tribunal has not awarded consortium amount and future prospects. As per view of Hon'ble Apex Court in case of *National Insurance Co. Ltd. vs. Pranay Sethi*¹, the Claimants are

1 2017 ACJ 2700 (SC)

entitled 50% future prospects. As per view of Hon'ble Apex Court in the case of *Magma General Insurance Co. Ltd. vs. Nanu Ram*², the Claimants are entitled for Rs.40,000/- each with 10% increase as consortium amount and Rs.16,500/- for funeral expenses and Rs.16,500/- for loss of estate.

6. In view of above calculations, the Claimants are entitled for following compensation.

Particulars	Amount
Income	Rs.12,276.00
50% future prospects	Rs.6,138.00

	Rs.18,414.00
Deduction towards personal expenses $\frac{1}{4}$	Rs.4,603.00

	Rs.13,810.50
Multiplier Dependency Rs.13,810 X 12 X 15	Rs.24,85,890.00
Loss of consortium Rs.44,000/- x 6(family members – filial and parental)	Rs.2,64,000.00
Loss of Estate	Rs.16,500.00
Funeral Expenses	Rs.16,500.00
Total Compensation	Rs.27,82,890.00

7. Total compensation is Rs.27,82,890/-. The Tribunal has awarded Rs.6,87,744/-, if this amounts deducts from the amount considered by this Court, it comes to Rs.20,95,146/-. The Claimants are entitled for this amount.

² 2018 ACJ 2782 (SC)

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

ORDER

(i) Appeal is allowed.

(ii) The Claimants are entitled for enhanced amount of Rs.20,95,146/- @ 7.5% per annum from filing of the Claim Petition till realization of the amount. Out of this amount Rs.2,97,000/- is consortium amount. The Claimants are entitled interest @ 7.5% on this amount from 1 October 2017 till realization of the amount.

(iii) The Respondent's shall deposit enhanced amount within six weeks from receipt of the order along with accrued interest thereon.

(iv) The Claimants are permitted to withdraw deposited amount along with accrued interest thereon.

(v) All pending Civil Applications, if any, are disposed of.

(SHIVKUMAR DIGE, J.)