

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

FIRST APPEAL NO.830 OF 2012

The United India Insurance Company Limited	}	
Western Regional Office Stadium House	}	
5 th Floor, Veer Nariman Road,	}	
Mumbai – 400 020	}	...Appellant
		(Original Insurer)

Versus

1. Smt. Shubhangi Subhash Malik	}	
2. Shri. Mohit Subhash Mulik	}	
Both Residing at 404,	}	
Nityanand Yashodham	}	
Opp Dindoshi Depot Goregaon -(E)	}	
Mumbai – 63	}	...Respondents
		(Org. Applicant Nos.1 & 2)

Mr. Rahul Mehta i/by KMC Legal Venture for the Appellant.
Mrs. S. V. Sonawane a/w Ms. Neha Tikam for Respondent No.1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATED : 17th APRIL, 2023

JUDGMENT :

1. The issue involved in this Appeal is income of deceased is considered on higher side.

2. It is contention of learned counsel for the Appellant that, without any evidence on record, Tribunal has considered the income of deceased at Rs. 14,000/- per month, which is on higher side. Learned counsel further submits that, wrong multiplier is applied by the Tribunal while calculating the compensation. Hence, requested to allow the Appeal.

3. Learned counsel for the Respondents-claimants submits that deceased was working as a Food Inspector in Food and Drugs Department, Government of Maharashtra his monthly salary was Rs.14,000/-, including HRA and DA. In the earlier month before his death his salary was Rs.13,936/-. The salary certificate is at Exhibit-28. The Tribunal has rightly considered the salary of deceased at Rs.14,000/- per month, which is proper. At the time of accident, deceased was 51 years old. The Tribunal has considered multiplier of 11, which is proper. Learned counsel further submits that Tribunal has awarded consortium amount on lower side it be awarded.

4. I have heard both learned counsel. Perused the judgment and order passed by the Motor Accident Claims Tribunal, Mumbai (for short 'the Tribunal'). It is contention of learned counsel for the Appellant that monthly income of deceased considered on higher side. To prove the income of deceased, claimant no.1 is examined herself. She has stated that her husband was working as a Food Inspector in Food and Drugs Department, Government of Maharashtra his monthly salary including HRA and DA was Rs.13,936/-, the salary certificate is at Exhibit-28. On the basis of oral and documentary evidence, the Tribunal has considered

monthly salary of deceased at Rs.14,000/- per month. I do not find any infirmity in it, as deceased was Government employee and his salary was fixed. In respect of issue of multiplier, the Tribunal has considered multiplier of 11., At the time of accident, deceased was 51 years old. The multiplier considered by the Tribunal is proper. Hence, I do not find infirmity in it.

5. The Tribunal has awarded consortium amount of Rs.5,000/-, Rs.2,000/- for funeral expenses, Rs.2,500/- for loss of estate. As per view of Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram¹**, each claimant is entitled for Rs.40,000/- as consortium and Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate. There are two claimants, so claimants are entitled to Rs.80,000/- for consortium amount. Total comes to Rs.1,10,000/-. If this amount is deducted from the amount considered by the Tribunal i.e. Rs.9,500/- it comes to Rs. 1,01,500/-. The claimants are entitled for this amount.

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

ORDER

- (i) Appeal is dismissed. No order as to cost.
- (ii) The claimants are entitled for additional amount of Rs.1,01,500/- @ 7.5% per annum from 1st November 2017, till realization of the amount.

¹ 2018 ACJ 2782 (SC)

- (iii) The Appellant-Insurance Company is directed to deposit the additional amount, alongwith accrued interest thereon, within eight weeks after the receipt of the order
 - (iv) The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - (v) The statutory amount be transmitted to the Tribunal. The parties are at liberty to withdraw it as per rule.
7. Pending applications, if any, are also disposed of.

(SHIVKUMAR DIGE, J.)