

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.474 OF 2004**

1	Sundarbai Nagnath Tekale,	)	
	Aged – 55 years.	)	
2	Suman Waghambhar Tekale,	)	
	Aged – 8 years.	)	
3	Vikas Waghambhar Tekale,	)	
	Aged – 6 years,	)	
	Appellant No.2 and 3 being minors	)	
	through next friend paternal	)	
	grandmother, Appellant No. 1,	)	
	All residing Shaujinaga, Near Mumbra)		Appellants
	Railway Station,	)	(Orig. Claimants)
	District – Thane.	)	

versus

Maharashtra State Road Transport	)	
Corporation, District – Thane.	)	...Respondents
Naupada Office.	)	(Orig. Opposite Party)

Mr. T. J. Mendon, Advocate for the Appellants.

Ms. P. M. Bhansali i/b. G. S. Hegde, Advocate for Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 26TH APRIL, 2023.

Oral Judgment :

1. By way of this appeal, the claimants are seeking enhancement of compensation.

2. It is the contention of learned counsel for the appellants that, while awarding compensation, the Tribunal has not awarded future prospects and consortium amount, wrong multiplier is applied and the amount for personal expenses deducted is 1/3rd, it should be 1/4th as there are four claimants. Hence, requested to allow the appeal.

3. Learned counsel for the respondent submits that at the time of passing the judgment and order, the Tribunal has considered all the aspects and, on that basis, compensation is awarded. No interference is required in it, hence, requested to dismiss the appeal.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Thane (for short "the Tribunal").

5. The Tribunal has considered monthly income of deceased at Rs. 4,500/- but the Tribunal has not awarded future prospects. As per the view of the Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)**, the claimants are entitled for 40% future prospects as the Tribunal has considered notional monthly income of deceased and he was self-employed. The Tribunal has applied multiplier of 12. At the time of accident, deceased was 31 year old, so the multiplier should be 16, hence, I am considering this multiplier. The Tribunal has deducted 1/3rd amount for personal expenses. There are four claimants, it should be 1/4th. The Tribunal has awarded consortium amount 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 claimant is entitled for Rs.40,000/- with 10% increase as consortium amount, Rs.16,500/- for funeral expenses and Rs.16,500/- for loss of estate.

Learned counsel for the respondent submits that after filing the claim petition, the mother of the deceased died, hence, she is not entitled for consortium amount. Considering the submission of learned counsel for the respondent, I am considering consortium amount for three claimants only.

Considering the above calculations, the claimants are entitled for following compensation :

Particulars	Amount
Monthly Income	Rs. 4500.00
40% future prospects	Rs. 1800.00
Total	Rs. 6300.00
$\frac{1}{4}$ deduction towards personal expenses	Rs. 1575.00
Monthly Income	Rs. 4725.00
Annual Income 4725 X 12	Rs. 56700.00
Rs.56700/- X 16(multiplier)	Rs. 907200.00
Consortium (Rs.44,000/- x 3 (claimants))	Rs. 132000.00
Funeral Expenses and Loss of Estate	Rs. 33,000.00
Total Compensation	Rs. 1072200.00

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The Tribunal has awarded Rs.1,69,000/-, if this amount is deducted from the amount of Rs.1072200/- considered by this Court, it comes to Rs.9,03,200/-. The claimants are entitled for this amount.

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

ORDER

1. The appeal is allowed.

2. The claimants are entitled for enhanced compensation of Rs. 9,03,200/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.1,65,000/- is consortium amount, the claimants are entitled for 7.5% interest per annum on this amount from 1st November 2017 till realisation of the amount.
3. The respondent is directed to deposit the enhanced amount along with accrued interest thereon within eight week after the receipt of this order.
4. The claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)