

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 2155 OF 2008**

Meenakshi Rajendra Sathe)
Age 30 years, Occupation Household)
Resding at Pirangut, Ganeshnagar,)Appellant
Taluka Mulshi, District : Pune.) (Orig. Petitioner)

Versus

- 1 Vilas Pandhari Kasbe,)
Age 45 years, Occ. Driver,)
Residing at Anandnagar, Near Hamal)
Panchayat Chinchwad, Pune.)
2 Anil Haribhau Shete, since deceased)
by his legal heirs)
a) Anita Anil Shete,)
age about 44 years, residing at)
A, ¼ , Yashopuram Society,)
Link Road, Chinchwad,)
Pune – 411 033.)
b) Aman Anil Shete,)
aged minor, amended as per)
leave granted by the Hon'ble Court on)
16.12.201, minor through Guardian,)
mother, Respondent No.2(a) residing)
at as above Res. No.2(a).)

- c) Akshay Anil Shete, minor, through)
guardian, mother, Respondent No.)
2(a) residing at as above Respondent)
No.2(a))
- 3 National Insurance Company Ltd.
Branch at Chinchwad, Jay Towers,
First Floor, Mumbai Pune Road,Respondents
Kalbhornagar, Chinchwad, Pune-19. (Orig. Respondents)

Mr. V. B. Rajure, Advocate for the Appellant.

Ms. Poonam Mital, Advocate for Respondent - Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 26TH APRIL, 2023.

Oral Judgment :

1. By way of this appeal, the appellant/claimant seeks enhancement of compensation.

2. It is the contention of learned counsel for the appellant that the Tribunal has not awarded future prospects and consortium amount. Learned counsel further submits that the Tribunal has applied wrong multiplier and $\frac{1}{2}$ amount is deducted for personal expenses, it should be $\frac{1}{3}$ rd as deceased was married. Hence,

requested to allow the appeal.

3. Learned counsel for the respondent No.3-Insurance Company submits that at the time of 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 the judgment and order passed by Motor Accident Claims Tribunal, Pune, (for short "the Tribunal"). The Tribunal has considered monthly income of deceased at Rs.10,000/- 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 claimant is entitled for future prospects. The deceased was 46 year old at the time of accident and was in permanent job, hence, the claimant is entitled for 30% future prospects. The Tribunal has deducted 1/2 amount for personal expenses, the deceased was married, hence, it should be 1/3rd. Hence, I am considering 1/3rd amount for personal expenses. The Tribunal has applied multiplier of 10, it should be 13 as deceased was 46 year old at the time of accident, I am considering the multiplier of 13. 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.

5. Considering the above calculations, the claimant is entitled for following compensation :

Particulars	Amount
Monthly Income	Rs. 10,000.00
30% future prospects	Rs. 3,000.00
Total	Rs. 13,000.00
1/3rd deduction towards personal expenses	Rs. 4,333.00
Monthly Income	Rs. 8,667.00
Annual Income 8667 X 12	Rs. 1,04,004.00
Rs.104004/- X 13(multiplier)	Rs. 13,52,052.00
Consortium for Applicant (1)	Rs. 44,000.00
Funeral Expenses and Loss of Estate	Rs. 33,000.00
Total Compensation	Rs. 14,29,052.00

The Tribunal has awarded Rs.6,20,000/-, if this amount is deducted from the amount of Rs.14,29,052/- considered by this

Court, it comes to Rs.8,09,052/-. The claimant is entitled for this amount.

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

ORDER

1. The appeal is allowed.
2. The claimant is entitled for enhanced amount of Rs.8,09,052/- @ 7.5% interest per annum from the date of filing of claim petition till realisation of the amount. Out of this amount, Rs.77,000/- is consortium amount, the claimant is entitled for interest @ 7.5% per annum on this amount from 1st November 2017 till realisation of the amount.
3. The respondent No.3-Insurance Company is directed to deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.
4. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

7. Learned counsel for the respondent No.3-Insurance Company undertakes to file vakalatnama. The Registry is directed to accept the same.

8. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)