

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 646 OF 2014

National Insurance Company Limited)
 Mumbai Regional Office-2)
 5th floor, Sterling Cinema Building, 65, Murzban)
 Road, Fort, Mumbai-400 001.) Appellant

Versus

1. Shantilal Nathulal Kachchara)
 Father of the deceased)
 Aged : 67 years, Occ. Nil)
 2. Manohardevi Shantilal Kachchara)
 Mother of the deceased)
 Aged 65 years, Occ. Housewife)
 3. Pooja W/o. Mahesh S. Kachchara)
 Widow of the deceased)
 Aged 23 years, Occ. Housewife)
 4. Divesh Mahesh Kachchara)
 Aged 2 years, Occ. Nil)
 R/at Mahavir Electric & Hardware Store)
 Pathanwadi, Malad(W), Mumbai)
 5. Khushboo Roadlines)
 Prop : Avadesh Chaudhary)
 R/at Flat No.3, 2nd Floor, Sector-3, Kalamboli,)
 New Mumbai, Dist. Nashik,)
 Owner of Tata Lorry No. MH-06-K-4314) Respondents

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Mr. Rahul Mehta i/b. KMC Legal Venture, Advocate for the Appellant.
 Mr. T. J. Mendon, Advocate for Respondent Nos. 1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th DECEMBER, 2023

JUDGMENT :

1. The issues involved in this appeal is income of deceased is considered on higher side and application of wrong multiplier.

2. It is the contention of learned counsel for the appellant that the Tribunal has considered monthly income of deceased at Rs.7,000/- p.m. without any evidence on record which is on higher side. Learned counsel further submitted that the Tribunal has applied multiplier of 18 it should be 17, hence requested to allow the appeal.

3. It is the contention of learned counsel for respondent Nos.1 to 4-claimants that at the time of accident deceased was 18 years old and he was doing the business in the name and style of Mahavir Electricals and Hardware and he was earning Rs.16,000/- to 20,000/- per month. But the Tribunal has considered monthly income of deceased at Rs.6,000/- per month which is proper and no interference is require in it. Learned counsel further submitted that the Tribunal has not awarded consortium amount. As per the view of Hon'ble Apex Court in the case of *Magma General Insurance Co. Ltd. vs. Nanu Ram*¹, it be awarded.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Mumbai (for short "**the Tribunal**"). To prove the income of deceased applicant No.3, wife of deceased has been examined, she has stated that deceased was doing business in the name and style of Mahavir Electricals and Hardware Store and he was getting income of more than Rs.10,000/- per month. In support of her evidence the claimants have examined PW-3 Arun Sawant,

¹ 2018 ACJ 2782 (SC)

he has supported the evidence of PW-1. Considering evidence on record the Tribunal has considered monthly income of deceased at Rs.6,000/- per month. I do not find infirmity in it. While calculating compensation, the Tribunal has applied the multiplier of 18. At the time of accident deceased was 28 years old, multiplier should be 17, so I am considering multiplier of 17. The Tribunal has not awarded consortium amount. There are four claimants.

As per the view of Hon'ble Apex Court in the case of *Magma (Supra)*, each claimant is entitled for Rs.48,000/- as consortium amount. It comes to Rs.1,92,000/-. The claimants are entitled for Rs.18,000/- for funeral expenses, Rs.18,000/-for loss of estate.

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

Particulars	Rs.	Entitlement
Monthly Income	Rs.	6,000.00
Annual Income	Rs.	72,000.00
Multiplier Rs. 72,000 X 17	Rs.	12,24,000.00
Medical Expenses (as per Judgment)	Rs.	25,000.00
Conventional heads (being 4 claimants)	Rs.	2,28,000.00
Total	Rs.	14,77,000.00
Less compensation awarded by the Tribunal	Rs.	13,61,000.00
Balance to be given to claimants	Rs.	1,16,000.00

The claimants are entitled for the enhanced amount of Rs.1,16,000/-.

6. In view of above, I pass following Order:

- i. The appeal is dismissed. No order as to cost.
- ii. The claimants are entitled for enhanced amount of Rs.1,16,000/- @ 7.5% interest from 1st November, 2017 till realisation of the amount.
- iii. The appellant shall deposit the enhanced amount along with accrued interest thereon within four weeks from the receipt of this 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, Mumbai along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

7. The appeal is disposed of. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)

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