

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

FIRST APPEAL NO. 477 OF 2023

The National Insurance Co. Ltd.	}	
RO II 5 th Floor, Sterling Building	}	
65, Murazban Road, Fort	}	
Mumbai-400 001	}	...Appellant

Versus

- | | | |
|----|---------------------------------|---|
| 1. | Smt. Seema @ Suvarna Lalit Pund | } |
| 2. | Mr. Dipak Lalit Pune | } |
| 3. | Smt. Kantabai Vithoba Pund | } |

(The respondent No.2 Minor is	}	
Represented by Smt. Seema @	}	
Suvarna Lalit Pund-respondent	}	
No.1 being his mother and natural	}	
guardian)	}	
All residing at Room No.189,	}	
Pandurang Nagar, Vakhpad,	}	
Kaju Plot, Kopripada Road,	}	
Tal. Vasai, Dist. Palghar	}	

- | | | |
|----|---------------------------------------|---|
| 4. | Silverline Logistics Pvt. Ltd. | } |
| | At post Mhapoli Tal. Bhiwandi | } |
| | Dist. Thane | } |
| | Also at Flat No.2, Podar House, | } |
| | Rafi Ahmed Kidwai Marg, Wadala | } |
| | Mumbai – 400 031. | } |
| | (Owner of Container No.MH-04/CU-2688) | } |

...Respondents

Ms. Poonam Mital for the Appellant.

Mrs. Varsha Nichani a/w Mr. Vijay Sardal for Respondent No.1 to 3

CORAM : SHIVKUMAR DIGE, J.

DATED : 17th APRIL, 2023**JUDGMENT :**

1. The issues involved in this Appeal are, wrong multiplier is applied by the Tribunal, while calculating the compensation and exorbitant an excessive compensation are awarded under other heads.

2. Learned counsel for the Appellant submits that at the time of accident, the deceased was 30 year old. The multiplier should be 16, but Tribunal has applied 17, which is wrong multiplier. Learned counsel further submits that the Tribunal has awarded Rs.1,00,000/- for loss of consortium, Rs.1,00,000/- for loss of love and affection. It is excessive and exorbitant amount. Hence, requested to allow the Appeal.

3. I have heard both the learned counsel. Perused the impugned judgment and order passed by the Motor Accident Claims Tribunal, Vasai (for short 'The Tribunal'). Admittedly, at the time of accident, the deceased was 30 year old. While calculating compensation, the Tribunal has applied multiplier of 17, it should be 16. Hence, I am considering multiplier of 16. The Tribunal has awarded Rs.1,00,000/- as consortium amount and Rs.1,00,000/- for loss of love and affection. As per the view of the Hon'ble Apex Court, in the case of *Magma General Insurance Co. Ltd. Vs. Nanu*

Ram,¹ each claimant is entitled for Rs.40,000/-as consortium amount. There are three claimants, so the claimants are entitled for Rs.1,20,000/- as consortium amount, Rs.15000/- for funeral expenses and Rs.15,000/-for loss of estate. Total comes to Rs.1,50,000/-.

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

Particulars	Amount
Monthly Income	Rs. 6000.00
Future Prospects 50%	Rs. 9000.00
Personal deduction 1/3rd	Rs. 6000.00
Rs.6,000X12X16 (multiplier)	Rs. 11,52,000.00
Consortium	Rs. 1,20,000.00
Loss of Estate	Rs. 15,000.00
Loss of funeral	Rs. 15,000.00
Total	Rs. 13,02,000.00
(Less) Compensation awarded by Tribunal	Rs. 15,82,000.00
Excess compensation	Rs. 2,80,000.00

5. As per above calculations, Rs.2,80,000/- is excess compensation. In view of the above, I pass following order :-

ORDER

(i) The Appeal is allowed.

1 2018 ACJ 2782 (SC)

- (ii) The Appellant is permitted to withdraw Rs.2,80,000/- out of deposited amount along with accrued interest thereon.
 - (iii) The claimants are permitted to withdraw remaining deposited amount along with accrued interest thereon.
6. Pending applications, if any, are also disposed of.

(SHIVKUMAR DIGE, J.)