

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 925 OF 2018**

The New India Assurance Co. Ltd.
41 B, 4th Floor, Maker Tower-E,
Near World Trade Center,
Cuffe Parade, Mumbai – 400 005.

....Appellants

versus

1. Ashwini Pravin Rajguru,
age 26 years, Occ. Housewife
- 2 Vedant Pravin Rajguru,
age 4 years, Occ. Student
- 3 Siddant Pravin Rajguru
age 3 years, Occ. Nil,
Respondent Nos.2 and 3 minor
represented by their natural guardian –
Mother respondent No.1.
- 4 Kisan Mahadu Rajgur,
Age 63 years, Occ. Nil
- 5 Pushpa Kisan Rajguru
Age 56 years, Occ. Nil,
All R/at House No.95, Kishkindha Nagar,
Paud Road, Pune - 38
- 6 M/s. Sanskruti Travels,
Sr. No.39, Teacher Colony,
Keshav Nagar, Mundhaw, Pune – 31
(FA stand dismissed against R.No.6 vide
Order dtd. 5/11/19.

.....Respondents

Ms. Poonam Mital, Advocate for the Appellant.

Ms. Ketki Gokhale i/b. Mr. Avinash M. Gokhale, Advocate for Respondent
Nos.1 to 5.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th DECEMBER, 2023.

Oral Judgment :

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1. The issue involved in this appeal is the compensation awarded for consortium amount is on higher side.

2. It is the contention of learned counsel for the appellant that the Tribunal has awarded Rs.1,00,000/- to claimant No.1 as consortium amount, Rs.2,00,000/- to claimant Nos.2 and 3 for loss of love and affection and Rs.1,00,000/- to claimant Nos.4 and 5 for loss of love and affections and Rs.25,000/- for funeral expenses, which are on higher side. Hence, requested to allow the appeal.

3. It is the contention of learned counsel for respondent Nos.1 to 5/claimants that Tribunal has considered all the aspects while awarding compensation and, on that basis, the judgment and order is passed. Hence, no interference is required in it.

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

5. It is the contention of learned counsel for the appellant that consortium amount and compensation for loss of love and affection is awarded on higher side. The Tribunal has awarded total amount of Rs.4,00,000/- as consortium amount and towards loss of love and affection and Rs.25,000/- for funeral expenses. In my view, it is on higher side. The Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)**, has held that each

claimant is entitled for Rs.44,000/- as consortium amount, Rs.16500/- for loss of estate and Rs.16,500/- for funeral expenses. I am considering this amount. The total of the said amount, comes to Rs.2,53,000/-. Considering the other calculations made by the Tribunal and consortium amount considered by this Court, the claimants are entitled for compensation of Rs.16,30,000/-. The Tribunal has awarded Rs.18,02,000/-. If the amount of Rs.16,30,000/- is deducted from Rs.18,02,000/-, it comes to Rs.1,72,000/-. This is an excess amount. The appellant-Insurance Company is entitled for this amount.

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

O R D E R

1. The appeal is partly allowed.
 2. The appellant/Insurance Company is permitted to withdraw Rs.1,72,000/- along with accrued interest thereon out of the deposited amount.
 3. The respondent Nos.1 to 5/claimants are permitted to withdraw the amount of Rs.16,30,000/- along with accrued interest thereon.
 4. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
- The first appeal stands disposed of.

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

(SHIVKUMAR DIGE, J.)