

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

FIRST APPEAL NO. 1110 OF 1999

1) Smt. Jyotiben Hareshkumar Joshi.)
 Adult. Occu: Household)

2) Kumari Dixita Hareshkumar Joshi)

3) Kumar Sachin Hareshkumar Joshi)

Nos. 2 and 3 Minors, through)
 their mother and natural)
 guardian Appellant No.1 above)
 residing at Saibaba Society,)
 Behind, Narpoli Police Station,)
 Bhiwandi, Taluka Bhiwandi,)
 District Thane as well as at)
 Village Morjar, post Vithon,)
 Taluka nakhtrama, Kutch,)
 Gujarat State.)

....Appellants
 (Orig. Applicants)

Versus

1) Jairam Namoman Purswani,)
 Adult, Occ: Business, residing)
 at Flat No.3, Premsagar Bldg.,)
 IInd Floor, Sector 22,)
 Ulhasnagar 421 003, Taluka)
 Ulhasnagar, District Thane,)

2) The New India Assurance Co. Ltd.)
 having its Head Office at)
 New India Assurance Building.)
 87. M. G. Road, Fort, Mumbai)
 400 023.)

3) Smt. Maniben Waghji Joshi,)

Adult, Occ: Nil, residing at)

Junaghiya, Post Goyla, Mokhra)

Taluka Lakhpat, Via Nalia,)

Kutch, Gujarat 370 655.)

....Respondents

(Orig. Opponents)

Ms. Druti Datar i/b Mr. R. S. Datar for the Appellants.
Ms. Poonam Mittal for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th DECEMBER, 2023.

Oral Judgment. :

1. By this appeal the Appellants are seeking enhancement of compensation.

2. It is contention of learned counsel for the Appellants that while granting compensation, the tribunal has not awarded future prospects. The tribunal has applied multiplier of 12, it should be 17. The tribunal has awarded consortium amount on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent No.2/Insurance Company that while awarding compensation the

tribunal has considered all the aspects and on that basis judgment and order passed. No interference is required in it.

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

5. While calculating compensation, the tribunal has considered monthly income of deceased at Rs.1200/- per month but, tribunal has not awarded future prospects. As per the view of Hon’ble Apex Court in the case of ***National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)***, the claimants are entitled 40% future prospects. At the time of accident deceased was 29 years old. The tribunal has applied multiplier of 12, it should be 17. The tribunal has awarded consortium amount on lower side. As per the view of Hon’ble Apex Court in case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***. Each claimant is entitled for Rs.48,000/- as consortium amount and Rs.18,000/-for funeral expenses and Rs.18,000/- for loss of estate.

6. Considering the above, the claimants are entitled for following compensation.

Monthly Income	Rs.1200/-
Future prospects 40% of income	Rs.480/-
Total monthly income	Rs.1680/-
Deduction of ¼ of income for personal expenses	Rs.420/-
Total monthly income Rs.1680/- - Rs.420/-	Rs.1260/-
Annual Income Rs.1260/- X 12`	Rs.15,120/-
Rs.15,120/- X 17	Rs.2,57,040/-
Consortium (Rs.48,000/- X 4 Claimants)	Rs.1,92,000/-
Funeral Expenses	Rs.18,000/-
Loss of Estate	Rs.18,000/-
Total Compensation amount	Rs.4,85,040/-
Amount awarded by Tribunal	Rs.1,80,000/-
Enhanced amount	Rs.3,05,040/-

7. In view of above, I pass following order.

ORDER

- i. Appeal is allowed.
- ii. The Claimants are entitled for enhanced compensation for Rs.3,05,040 @ of Rs.7.5% per annum from the date of filing claim petition till realization of amount out of this amount Rs.2,28,000 is consortium amount. The claimants are entitled @ 7.5% per annum interest on this amount from 1st November, 2017 till realization of

amount.

iii. The Respondent No.2/Insurance Company shall deposit enhanced amount along with accrued interest thereon within six weeks after receipt of the order.

iv. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

9. The learned counsel for the Respondent No.2/Insurance Company undertakes to file Vakalatnama.

10. All pending interim applications are disposed off.

(SHIVKUMAR DIGE, J.)