

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

FIRST APPEAL NO.1393 OF 2009

1. Mr.Milind Laxman Bhandare	}	
2. Mrs. Suman Milind Bhandare	}	
	}	
Both R/at Ambedkarnagar, Vita,	}	
Taluka Khanapur.	}	...Appellants

Versus

1. Mr.Manjunath Shivaji Patil	}	
R/at Room No.287, Vakkaligar Peth,	}	
Devangiri, Karnataka-591 507.	}	
 2. The New India Assurance Co. Ltd	 }	
‘Bilvadal’, Opp. Prasad Theatre, Vita,	}	
Taluka Khanapur.	}	...Respondents

Mr.V.B. Rajure, for the Appellants.
Ms.Poonam Mittal, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13 APRIL 2023

JUDGMENT :-

1. The issues involved in this Appeal are future prospects, consortium amount have not been awarded and application of wrong multiplier.

2. It is contention of the learned counsel for the

Appellant that the Tribunal has considered notional monthly income of deceased of Rs.4,000/-. But while awarding compensation no future prospect is awarded. The Tribunal has considered multiplier as per age of the parents, it should be as per age of the deceased. The Tribunal has awarded amount for consortium and funeral expenses on lower side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent No.2-Insurance Company that while 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 judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short 'the Tribunal').

5. The Tribunal has considered monthly income of deceased at Rs.4,000/- per month. But Tribunal has not awarded future prospects. As per view of the Hon'ble Apex Court in the case of *National Insurance Co. Ltd. V/s.Pranay Sethi*¹, the Claimants are entitled for 40% future prospects as deceased was self-employed.

1 2017 ACJ 2700 (SC)

6. The Tribunal has considered multiplier of 15 as per age of the parents of the deceased. It is settled principle of law that multiplier should be as per the age of deceased, at the time of the accident deceased was 21 years old. The proper multiplier is 18. The Tribunal has awarded Rs.4,000/- for funeral expenses and Rs.10,000/- towards loss of love and affection. As per view of the Hon'ble Apex Court in the case of *Magma General Insurance Co. Ltd V/s. Nanu Ram*², each Claimant is entitled for Rs.40,000/- with 10% increase as consortium amount and Rs.16,500/- for funeral expenses and Rs.16,500/- for loss of estate.

7. Considering the above calculations the Claimants are entitled for following compensation.

Particulars	Amount
Income	Rs.4,000.00
40% future prospects	Rs.1,600.00

Total	Rs.5,600.00
Yearly income Rs.5600 x 12	Rs.67,200.00
50% deduction for living expenses	Rs.33,600.00
Multiplier	18
Total Income	Rs.6,04,800.00
Loss of Consortium 44,000 x 2	Rs.88,000.00
Funeral Expenses	Rs.16,500.00
Loss of estate	Rs.16,500.00

2 2018 ACJ 2782 (SC)

Total Compensation	Rs.7,25,800.00
Less already awarded by Tribunal	Rs.3,00,000.00
Total Compensation Payable	
Rs.7,25,800/- (-) Rs.3,00,000/-	Rs.4,25,800.00

8. The Claimants are entitled for enhanced compensation of Rs.4,25,800/-.

9. In view of above I pass following order.

ORDER

(i) Appeal is allowed.

(ii) The Claimants are entitled for enhanced compensation of Rs.4,25,800/- @ 7.5% interest per annum from the date of the filing of the Claim Petition till realization of the amount. Out of this amount Rs.1,21,000/- is consortium amount. The Claimants are entitled for 7% per annum on this amount from 1 October 2017 till realization of the amount.

(iii) The Respondents are directed to deposit enhanced amount along with accrued interest thereon within six weeks after the receipt of the order.

(iv) The Claimants are permitted to withdraw deposited amount along with accrued interest thereon.

(v) The learned counsel for the Respondent No.2- Insurance Company undertake to file Vakalatnama.

(vi) All pending Civil Applications, if any, are disposed of.

(SHIVKUMAR DIGE, J.)