

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 2696 OF 2007

1. Smt. Sonubai Hari Thorat)
 Since Deceased through its legal heirs)
2. Shri Laxman Hari Thorat)
 Age 58 years, Occ : Nil)
3. Smt. Hirabai Laxman Torat)
 Age 52 years, Occ : Household)
4. Shri Uttam Laxman Thorat)
 Age 22 years, Occ : Nil)
- All R/o. Tapovan,)
- Tal. & Dist. Nashik)...Appellant
 (Orig. Applicants)

Versus

1. Shri Pramod Narayan Samantrai)
 Adult, Occ: Business)
 R/o. Near Gaushala, Next to)
 Digambar Akhada, Tapovan)
 Road, Panchavati, Nashik)
2. Shri Balkrishingh Gurmege Singh)
 Sandhu, adult, Occ : Service)
 R/o. "Keudiban", Tapovan)
 Panchvati, Nashik)
3. The New India Assurance Co. Ltd.)
 Div. Office : Gurunanak Household)

1st floor, Abvoe Wasan's Show-
room, New Agra Road
Nashik - 422 001

)
)
) Opponents
.... Orig. Respondents

Ms. Bhavana Khemani i/b Anil J. Ahuja for the Appellant
Mr. Ashwin Pimpale i/b R. N. Gite for the Respondent No. 1.
Mrs. S. S. Dwivedi for the Respondent No. 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st MARCH 2023.

JUDGMENT :

1. By way of this appeal, the appellants/claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the appellant that tribunal has considered income of the deceased at Rs. 4,000/- per month but tribunal has applied wrong multiplier and has not given future prospects.

3. Learned counsel further submits that no consortium amount and funeral expenses and loss of estate amount is awarded. Hence, requested to allow the appeal.

4. It is contention of learned counsel for the

respondent/insurance company that while awarding compensation. The tribunal has considered all the aspects and on that basis compensation is awarded. Learned counsel further submits that while deducting the amount for personal expenses, the tribunal has deducted 1/3 amount for personal expenses instead of 1/2 amount. Hence, requested to dismiss the appeal.

5. Learned counsel for the respondent no.1 submits that appropriate order be passed. The vehicle was insured with respondent no. 2 at the time of accident. Hence, liability of paying the compensation is of Respondent no. 2.

6. I have heard all learned counsel, perused judgment and order passed by the Motor Accident Claims Tribunal, (for short 'the Tribunal'). While awarding the compensation the tribunal has considered monthly income of deceased at Rs. 4,000/- per month, while applying multiplier the tribunal has considered the multiplier of father of the deceased. It is settled principles of law that it should be of deceased. At the time of accident deceased was 25 years old so proper multiplier is 18. Hence, I am considering multiplier of 18. The tribunal has not given future prospects. As per 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 for 50% future prospects. I am considering the future prospects as 50%. The claimants are entitled for consortium amount, as per the view Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)*** each claimant is entitled Rs. 40,000/- with 10% increase as consortium amount and Rs. 16,500/- for funeral expenses and Rs. 16,500/- for loss of estate. Considering above calculation the claimants are entitled for following compensation.

Head	Calculation (Rs.)
Monthly Income	Rs. 4,000/-
1/2 deduction towards personal expenses	Rs. 2,000/-
Future Prospects (50%)	Rs. 1,000/-
Total Dependency	Rs. 3,000/-
Age Multiplier	18
Compensation (E x 12 x 18) 3000 x 12 x 18	Rs. 6,48,000/-
Loss of Estate	Rs. 16,500/-
Funeral Expenses	Rs. 16,500/-
Consortium (44,000 x 4)	Rs. 1,76,000/-
Total Compensation	Rs. 8,57,000/-

The tribunal has awarded Rs. 2,30,000/- if this amount deducts from the amount considered by this Court Rs. 8,57,000/- it comes to Rs. 6,27,000/-. The claimants are entitled for this amount.

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

ORDER

- i. Appeal is allowed.
- ii. The claimants are entitled for the compensation of Rs.6,27,000/- @ of interest 7.5% P.A. from filing of claim petition till realization of the amount. Out of this amount Rs.2,09,000/- is consortium amount the claimants are entitled @ 7.5% P.A. on this amount from 1 October, 2017 till realization of the amount.
- iii. The respondents are directed to deposit enhanced amount alongwith accrued interest thereon within six weeks after receipt of the order.
- iv. The claimants are permitted to withdraw deposited amount along with accrued interest thereon.
- v. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)