

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 822 OF 2019

1. Hemlatha Sunil Thakur

Aged about 40 years

2. Vishal Sunil Thakur

Aged about 25 years

3. Rahul Sunil Thakur

Aged about 22 years

4. Rukmini Janardhan Thakur

Aged about 82 years

All are residing at Navkhar, Post. Kurdus,

Taluka Alibaug, Dist. Raigad

.... Appellants

Versus

1. Harishchandra Tama Patil

Shet Jui, Post Benase

Taluka Alibaug, Dist. Raigad.

2. The United India Ins. Co. Ltd.

Stadium House, 5th Floor, Veer Nariman Road,

Churchgate, Mumbai – 400 021

.... Respondents

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Mr. T.J.Mendon, Advocate for the Appellants.

Mr. Rahul Mehta i/b. KMC Legal Venture, Advocate for Respondents .

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CORAM : SHIVKUMAR DIGE, J.

DATE : 12th DECEMBER, 2023

JUDGMENT :

1. By this appeal the appellants- claimants are seeking enhancement of compensation.

2. It is the contention of learned counsel for the appellant-claimant that the Tribunal has considered monthly income of deceased at

Rs.15,295/- per month but the Tribunal has not awarded future prospectus. Learned counsel further submitted that while awarding compensation the Tribunal has deducted 1/3rd amount for personal expenses it should be 1/4th as there are 4 claimants. Hence requested to allow the appeal.

3. Learned counsel for the respondent-Insurance Company submitted that while awarding compensation the Tribunal has considered all the aspects hence no interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Raigad (for short “**the Tribunal**”). The Tribunal has considered monthly income of deceased at Rs.15,295/- but while calculating compensation the Tribunal has not considered future prospectus. As per the view of Hon’ble Apex Court in the case of *National Insurance Co. Ltd. vs. Pranay Sethi*¹, claimants are entitled for 30% future prospectus hence, I am considering it. The Tribunal has deducted 1/3rd amount for personal expenses. There are 4 claimants it should be 1/4th hence, I am considering 1/4th amount for personal expenses. The Tribunal has awarded consortium amount on the lower side. As per the view of Hon’ble Apex Court in the 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, Rs.18,000/- for

¹ 2017 ACJ 2700 (SC)

funeral expenses and Rs.18,000/- for loss of estate.

5. Considering the above, the claimants are entitled for following compensation:

Particulars	Entitlement
Monthly Income	15,295.00
30 % future prospects	4,588.50
Total monthly income	19,883.50
Annual Income	2,38,602.00
Multiplier Rs.238602 X 13	31,01,826.00
1/4th deduction for personal expenses	7,75,456.50
Total	23,26,369.50
Deduction towards 30% contributory negligence of deceased	6,97,910.85
Total	16,28,458.65
Consortium (Rs.48,000/- X4 claimants)	1,92,000.00
Funeral Expenses	18,000.00
Loss of Estate	18,000.00
Total	18,56,458.65
Less awarded by Tribunal	13,12,738.00
Total enhanced amount	5,43,720.65

The claimants are entitled for an enhanced amount of Rs.5,43,720.65.

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

ORDER

(i) The appeal is allowed.

(ii) The appellant Nos.1 to 4 /claimants are entitled for

enhanced amount of Rs. 5,43,720.65 @ 7.5% interest per annum from date of filing claim petition till realisation. Out of this amount, Rs. 2,28,000/- is consortium amount, the claimants are entitled for interest at 7.5% per annum on this amount from 1st November 2017 till realisation of the amount.

- (iii) The respondent No.2 - Insurance Company shall deposit Rs.5,43,720.65 along with accrued interest thereon before the Tribunal within six weeks from the receipt of the order.
- (iv) The claimants are permitted to withdraw the amount deposited by the respondent No.2-Insurance Company along with accrued interest thereon.

7. The appeal is disposed of. All pending applications, if any, are also disposed of.

(SHIVKUMAR DIGE, J.)

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