

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.273 OF 2020

1. Shri.Shivaji Bapu Bankar }
2. Sou.Sindhu Shivaji Bankar }
Both R/at Dhawal, Taluka-Phaltan }
District-Satara } ...Appellants

Versus

1. Shri.Popat Mhasku Pisal }
R/at Tambe Vasti, Sakharwadi, Taluka- }
Phaltan, District-Satara. }
2. National Insurance Co. Ltd. }
Satara. }} ...Respondents

Mr.Vishwanath S. Talkute, for the Appellants.
Mr.Amol Gatne, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13 APRIL 2023

JUDGMENT :-

1. The issues involved in this Appeal are future prospects and consortium amount have not been awarded.

2. It is contention of the learned counsel for the Appellant that while awarding compensation the Tribunal has not awarded future prospects and consortium amount is awarded on lower side. Hence, requested to allow the Appeal.

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3. The learned counsel for the Respondent-Insurance Company vehemently submits 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 award passed by the Motor Accident Claims Tribunal, Satara (for short 'the Tribunal').

5. The Tribunal has considered monthly income of deceased at Rs.6,000/-. 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***, the Claimants are entitled for 40% future prospects. Hence, I am considering it. The Tribunal has awarded Rs.70,000/- for loss of estate and funeral expenses and love and affection. As per view of Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. V/s. Nanu Ram***¹, 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.

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

1 2018 ACJ 2782 (SC)

Particulars	Amount
Income	Rs.6,000.00
40% future prospects	Rs.2,400.00
Deduction towards personal expenses 1/2th of Rs.8,400 comes to Rs.4,200.00.	Rs.4,200.00
Total Income Rs.4220 X 12	Rs.50,400.00
Rs.50,400 X 18 (multiplier)	Rs.9,07,200.00
Loss of consortium Rs.44,000/- x 2(family members)	Rs.88,000.00
Loss of Estate	Rs.16,500.00
Funeral Expenses	Rs.16,500.00
Total Compensation	Rs.10,28,200.00

7. The total compensation comes to Rs.10,28,200/-, if this amount deducted from the compensation awarded by the Tribunal Rs.7,18,000/- it comes to Rs.3,10,200/-. The Claimants are entitled for this amount.

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimants are entitled for enhanced amount of Rs.3,10,200/- @ 7.5% per annum from date of 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 @

7.5% interest 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 within six weeks after receipt of the order.

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

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

(SHIVKUMAR DIGE, J.)