

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.16371 OF 2023
IN
FIRST APPEAL NO. 826 OF 2005**

Jaitunbi Sherukhan and ors.

....Applicants/Appellants

Versus

Branch Manager, New India Assurance
Company Ltd.

....Respondent

Mr. Mosin Naik i/b. Mr. S. V. Sonawane, Advocate for the
Applicant/Appellant.

Ms. Jyoti Bajpayee, Advocate for the Respondent/Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th DECEMBER, 2023.

P.C. :

1. This application is taken for modification of judgment dated 17th March 2023.
2. Learned counsel for the applicants submitted that this Court allowed the appeal filed by the claimants. In the said appeal, in paragraph No.6, this Court has considered the monthly income of the deceased at Rs.2,000/- but in the chart at paragraph 8, the monthly income is mentioned as Rs.3,000/- and the calculations are made accordingly. Learned counsel for the applicants submitted that correct monthly income of the deceased is Rs.2,000/-. He requested to correct the judgment accordingly.

3. Learned counsel for respondent – Insurance Company submitted that appropriate order be passed.

4. I have heard both learned counsel. Perused the judgment dated 17th March 2023 passed by this Court. While calculating the compensation, this Court has considered the monthly income of deceased at Rs.3,000/- but this Court in paragraph (6) of the order has considered monthly income of deceased at Rs.2,000/-. The correct monthly income of deceased is Rs.2,000/-. So the chart and the enhanced amount which the claimants are entitled to is required to be corrected.

5. In view of above, paragraph Nos.8, 9 and 10 of the judgment dated 17th March 2023 are substituted and read as under :

“8. The Tribunal has not awarded consortium amount. As per view of Hon’ble Apex Court in the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram**, each claimant is entitled to Rs.40,000/- as consortium with 10% increase and Rs.16,500/- for funeral expenses and Rs.16,500/- for loss of estate. Considering the above calculations, the claimants are entitled for following compensation:-

Particulars	Amount
Monthly Income	Rs. 2000.00
Less 1/5 deduction for personal expenses (rounded off)	Rs. 400.00
Total Monthly Income	Rs. 1600.00
Annual Income Rs.1600X12(months)	Rs. 19,200.00
Rs.19,200X17(multiplier)	Rs. 3,26,400.00

Add Consortium amount (7 claimants) (Rs.44,000X7)	Rs.	3,08,000.00
Add Funeral expenses and loss of estate (Rs.16,500+16,500)	Rs.	33,000.00
Total entitled compensation	Rs.	6,67,400.00
(Less) Compensation awarded by Tribunal	Rs.	1,78,000.00
Total Compensation Payable		
Difference (Amount to be deposited by Appellant-Insurance Company)	Rs.	4,89,400.00

9. The Tribunal has awarded amount of Rs.1,78,000/-, if this amount is deducted from the amount considered by this Court, it comes to Rs.4,89,400/-, the claimants are entitled for this amount.

10. In view of above, I pass following order :-

ORDER

- (i) The Appeal is allowed.
- (ii) The claimants are entitled for enhanced amount of Rs.4,89,400/- @ 7.5% per annum from the date of filing of Claim Petition till realization of the amount, out of this amount of Rs.3,08,000/- is consortium amount, the claimants are entitled @ 7.5% interest on this amount from 1st October 2017, till realization of the amount.
- (iii) The Appellant-Insurance Company is directed to 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 interest as per their share.”

6. The interim application is allowed in above terms and disposed off.

7. The judgment dated 17th March 2023 is modified in above terms.

8. After carrying out necessary corrections, the modified judgment be uploaded on the official website of High Court.

(SHIVKUMAR DIGE, J.)