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

FIRST APPEAL NO. 163 OF 2024

1. Renuka Kumar Kale)
   Age: 53 years, Occ: Household)

2. Kumar Narayan Kale)
   Age- 61 years, Occ: Nil)

   Both R/o. Wadachiwadi Tal. Mohol)
   Dist: Solapur)….Appellant
   (Orig. Claimants)

Versus

1. Delhi Gujarat fleet carrier Pvt. Ltd.)
   Plot. No. 16, Industrial Area,)
   Dharuhera, Haryana 123002)
   and also at Chandmari, Nagaland,)
   Kohima-797001)
2. The New India Assurance Co. Ltd.)
   Divisional Manager Park Chowk,)
   Solapur.)….Respondent
   (Orig. Respondents)

Mr. R. S. Alange, Advocate for the Appellants.
Smt. Shalini Shankar, Advocate for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 24th APRIL, 2024.

Oral Judgment :

1. By way of this appeal, the Appellants/Claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the Appellants that deceased was working in Hinduja Leyland Finance Company, Solapur and was earning Rs.12,000/- per month. To prove his income, Bank Manager was examined but the Tribunal has considered monthly income of the deceased at Rs.6,000/- per month, which is on lower side. Learned counsel further submitted that the Tribunal has not awarded future prospects and consortium amount is awarded on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent No.2/Insurance Company that the Tribunal has considered all the aspects while passing the judgment and order and no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims, Tribunal, Solapur (for short "the Tribunal").

5. To prove the income of the deceased, the Claimants have examined Claimant No.1 mother of the deceased. She has stated that at the time of accident deceased was 24 years old. The deceased was working in Hinduja Leyland Finance Company Limited, Solapur and was earning Rs.12,000/- per month. In supports of the evidence of PW-1, the Claimants have examined Sumit Kumar Khalme at Exhibit-33. Branch Manager in Union Bank of India, he has stated that deceased had bank account in their bank extract of bank account is at Exhibit 34 and passbook at Exhibit35. He has further stated that on 7th October, 2019 amount of Rs.10,000/- was deposited by R.T.G.S. in the account of deceased by Hinduja Leyland Finance Company Limited. In cross-examination, he has admitted that he cannot say as to for what reason amount of Rs.10,000/- was deposited in the bank account of the deceased.

6. While dealing with the issue of income, the Tribunal has observed that there is nothing on record to show that the deceased was working with Hinduja Leyland Finance Company Limited,

Solapur. Considering evidence on record, the Tribunal has considered notional monthly income of the deceased at Rs.6,000/- per month. I am unable to understand the observations of the Tribunal, as Claimant No.1 has categorically stated that the deceased was working with Hinduja Leyland Finance Company Limited, Solapur. It appears from record that summons was served to manager of Hinduja Leyland Finance Company Limited, Solapur but the manager did not appear thereafter, bailable warrant was issued against the said person but thereafter, also he did not turn to the Tribunal. It shows that, the Claimants have taken steps to secure appearance of authority from the Hinduja Leyland Finance Company Limited, Solapur but the said authority did not appear before the Tribunal so, it cannot be said that the Claimant failed to prove that the deceased was not working in the said company. The bank manager has stated that Hinduja Leyland Finance Company Limited, Solapur had deposited Rs.10,000/- in the bank account of the deceased. The said company must have deposited the salary there is no reason to the said company to deposit the amount in the bank account of the deceased hence, I am considering Rs.10,000/- as monthly income of the deceased. The Tribunal has not awarded future prospects. As per the view of Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)***, the Claimant is entitled for 50% future prospects. The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in the case ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each Claimant is entitled to Rs.48,000/- for consortium amount and Rs.18,000/- for loss of estate and Rs.18,000/- for funeral expenses.

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

Monthly income	Rs.10,000/-
Annual income	Rs.1,20,000/-
Add: 50% future prospects	Rs.60,000/-
Total	Rs.1,80,000/-
Multiplier X 18	Rs.32,40,000/-
Deduction ½ for personal expenses	Rs.16,20,000/-
Consortium (Rs.48,000/- X 2) Claimants	Rs.96,000/-
Loss of estate	Rs.18,000/-
Funeral Expenses	Rs.18,000/-
Total compensation	Rs.17,52,000/-
Less awarded by the Tribunal	Rs.9,77,000/-
Enhanced amount	Rs.7,75,000/-

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

ORDER

i. Appeal is allowed.

ii. The Claimants are entitled for enhanced amount of **Rs.7,75,000/-** @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.

iii. The Respondent/Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within eight weeks after receipt of the order.

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

v. The Claimants shall pay the deficit Court's fees on enhanced amount, if any, as per Rule.

9. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)