

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1198 OF 2015

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|---|---|------|-------------|
| 1 | Nandkumar Sadashiv Gulvani |) | |
| | Age : 62 years, Occ : Agricultural |) | |
| 2 | Lata Nandkumar Gulvani |) | |
| | Age : 55 years, Occ : Household |) | |
| 3 | Nidhi Nilesh Gulvani |) | |
| | Age : 26 years, Occu : Household |) | |
| 4 | Rutvai Nilesh Gulvani |) | |
| | Age : 2 years, Occ : Nil |) | |
| | Minor through Appellant No.3 |) | |
| | All R/at Brahman Galli, Vita, Tal : Khanapur, |) | |
| | Dist : Sangli |)... | Appellants |
| | versus | | |
| 1 | Yogesh Sahadeo Mane |) | |
| | Age : Adult, Occ : Business |) | |
| | R/o. Kadegaon, Tal : Kadegaon, Dist : Sangli |) | |
| 2 | United India Insurance Co. Ltd., |) | |
| | Branch, Miraj, Tal. Miraj, Dist : Sangli |)... | Respondents |

Mr. Sainand Vijay Chaugule, Advocate for the Appellant.

Ms. Poonam Mital, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th DECEMBER, 2024.

Judgment :

1. By this appeal, the appellants' are seeking enhancement of compensation.
2. It is contention of learned counsel for the appellant that while awarding compensation, the Tribunal has not awarded future prospects.

There are four claimants but the Tribunal has deducted 1/3rd amount for personal expenses. The Tribunal has awarded consortium amount on lower side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.1- Insurance Company that while passing the order, the Tribunal has considered all aspects and has passed well reasoned order, no interference is required in it. Hence, requested to dismiss the appeal.

4. I have heard both learned counsel, perused the impugned judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short "the Tribunal"). While awarding compensation, the Tribunal has considered monthly income of the deceased at Rs.3,000/- per month but the Tribunal has not awarded future prospects. As per the view of the Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)**, the claimants are entitled for 40% future prospects. There are four claimants. The Tribunal has deducted 1/3rd amount for personal expenses, it should be 1/4th. The Tribunal has awarded consortium amount on lower side. As per the view of the Apex Court in the case of **Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)**, each claimant is entitled for consortium of Rs.48,000/-, Rs.18,000/- for loss of estate and Rs.18,000/- for funeral expenses.

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

Particulars	Rs.	Amount
Annual Income (Rs.3000/- pm x 12 months)	Rs.	36,000.00
40% future prospects	Rs.	14,400.00
Total	Rs.	50,400.00
¼ deduction towards personal expenses	Rs.	12,600.00
Total	Rs.	37,800.00
Rs.37,800/- X 16 (multiplier)	Rs.	6,04,800.00
Consortium (Rs.48,000/- x 4(claimants))	Rs.	1,92,000.00
Loss of Estate	Rs.	18,000.00
Funeral Expenses	Rs.	18,000.00
Total Compensation	Rs.	8,32,800.00

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The Tribunal has awarded Rs.3,97,000/-, if this amount is deducted from the amount of Rs.8,32,800/- considered by this Court, it comes to Rs.4,35,800/-. The claimants are entitled for this amount.

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

ORDER

1. The appeal is allowed.
2. The claimants are entitled for enhanced compensation of Rs. 4,35,800/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.2,28,000/- is consortium amount, the

claimants are entitled for 7.5% interest per annum on this amount from 1st November 2017 till realisation of the amount.

3. Respondent No.2-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.
4. The claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.
5. The claimants shall pay deficit court fees on enhanced amount, if any, as per Rule.
7. Pending applications, if any, stand disposed of.
8. Ms. Mital, learned counsel appearing on behalf of respondent No.2-Insurance Company undertakes to file vakalatnama in the Registry. If the same is filed, the Registry to accept it.

(SHIVKUMAR DIGE, J.)