IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.770 OF 2022

1. Pranav Mohan Alat	}	
Age-23 years, Occ : Education	}	
	}	
2. Prajot Mohan Alat	}	
Age-19 years, Occ : Education	}	
Both R/at-31, Sindhu Vihar, Jule Solapur,	}	(Org. Claimants)
Vijapur Road, Solapur.	}	**...Appellants**

Versus

1. Mohan Jalinder Alat	}	
Age-38 years, Occ : Business,	}	
R/o. 31, Sindhu Vihar, Jule Solapur,	}	
Vijapur Road, Solapur.	}	
2. Royal Sundaram Alliance Ins. Co.	}	(Org.
Having Office at Hotgi Road, Vishram	}	Respondents)
Nagar, Solapur.	}	**...Respondents**

Mr.R.S. Alange, for the Appellants.
Mr.Nikhil Mehta i/b KMC Legal Venture, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th FEBRUARY 2024

ORAL JUDGMENT :-

. By way of this Appeal Claimant's are seeking enhancement of the compensation.

2. It is contention of the learned counsel for the Appellants-Claimants that, the deceased was doing business of beauty parlour and tailoring work and she was earning Rs.10,000/- per month, but Tribunal has considered her monthly income at Rs.5,000/- per month, which is on lower side. The learned counsel further submitted that the Tribunal has not awarded future prospects and consortium amount awarded on lower side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that, no evidence was produced on record to prove the income of deceased nor any witness has been examined. The income of Rs.5,000/- per month considered by the Tribunal is proper. The learned counsel further submitted that while passing order the Tribunal has considered all the aspects. Hence, no interference is required in it.

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

5. To prove the income of the deceased the Claimant's

have examined the Claimant No.1 Pranav Alat at Exhibit-24. He has stated that the deceased was his mother and she was doing business of beauty parlor and tailoring work and she was earning Rs.10,000/- per month.

6. While dealing with the issue of income of the deceased the Tribunal has considered notional income of deceased at Rs.5,000/- per month, in my view, it is on lower side. It appears from record that the Claimant's are the sons of deceased. The deceased was widow. She was maintaining family of three persons on her own income. Though documentary evidence is not produced on record to prove the income of the deceased, but it appears from record that she was maintaining family of three persons. The occupation of Claimant Nos.1 and 2 is shown as education and the deceased was providing their education expenses. Hence, I am considering notional monthly income of the deceased at Rs.8,000/- per month. The 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[1]***,*** it should be 25%, hence, I am considering 25% future prospects. The Tribunal has awarded consortium amount on lower side. As per view of Hon'ble Apex Court in case of ***Magma General Insurance Co. Ltd. V/s. Nanu Ram***[2]***,*** each claimant is entitled for Rs.48,000/- as consortium amount. There are two Claimants it comes to Rs.96,000/-. The Tribunal has applied multiplier of 13 at the time of the accident deceased was 45 years old, so proper multiplier is 14. Considering these calculations the Claimants are entitled for following compensation.

Particulars	**Amount**
Monthly Income	Rs.8,000.00
Annual Income (Notional Income X 12 months)	Rs.96,000.00
(+) Future Prospects (25%)	Rs.24,000.00
Annual Income	**Rs.1,20,000.00**
Multiplier 14	Rs.1,68,000.00
1/3rd Deduction	Rs.5,60,000.00
Total	**Rs.11,20,000.00**
Consortium (Rs.48,000 x 2)	Rs.96,000.00
Total Compensation	Rs.12,16,000.00

1 2017 ACJ 2700 (SC)
2 2018 ACJ 2782 (SC)

Awarded Amount	Rs.5,50,000.00
Enhanced Amount	**Rs.6,66,000.00**

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimants are entitled for enhanced amount of Rs.6,66,000/- @ 7.5% along with accrued interest from the date of the filing of Claim Petition till realization of the amount. Out of this amount Rs.96,000/- is consortium amount, the Claimant's are entitled 7.5% on this amount from 1st November 2017 till realization of amount.

(iii) The Respondent-Insurance Company shall deposit enhanced amount alongwith accrued interest within eight weeks after receipt of the order.

(iv) The learned counsel for the Insurance Company undertakes to file Vakaltnama. It is taken on record.

(v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)