IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 460 OF 2011

1	Appasaheb Aujappa Mokashi Age – 59 yrs., Occu. Service	))	
2	Sou. Kamal Appasaheb Mokashi Age – 50 yrs., Occu. Household	))	
3	Satish Appasaheb Mokashi Age – 27 yrs., Occu. Education	))	
4	Gangubai Aujappa Mokashi Since deceased by Lrs No.1 & 2 above	))	
4(a)	Appasaheb Aujappa Mokashi	)	
4(b)	Sou. Kamal Appasaheb Mokashi Amendment carried out as per Court's Order dated 09.11.2023 in Interim Application No. 16886/2023 in First Appeal No. 460/2011	)	Appellants
	versus	)	
1	Shri Sanjay Vasudeo Sutar Age – Major, Occu. Owner of MH-10-E-8382 R/o. Ushakal, Plot No.35, Chintamaninagar, Sangli	))))	
2	National Insurance Company Ltd. Through Maruti Insurance Brokers Ltd. Chougule Industries Ltd. Vakhar Bhag, Sangli	))))	Respondents

Mr. Tejpal S. Ingale, Advocate for the Appellants.
Mr. V. B. Rajure, Advocate for Respondent No.1.
Ms. Poonam Mital, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 9th MAY, 2024.

Oral Judgment :

1. By this appeal, the appellants/claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the appellants/claimants that the Tribunal has considered annual income of the deceased at Rs.4,00,000/- but the Tribunal has deducted 20% of income tax from the said amount, which is erroneous. Learned counsel further submitted that Saral and 16A form produced on record shows that on income of Rs.2,20,800/-, income tax of Rs.19,543/- was deducted. This fact is not considered by the Tribunal. Learned counsel further submitted that the Tribunal has applied wrong multiplier as per the age of the mother of the deceased, which is erroneous. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.2 - Insurance Company that the Tribunal has deducted income tax as per slip of the income tax. Considering the evidence on record, the Tribunal has passed well-reasoned order. No interference is required in it.

4. Learned counsel for respondent No.1 submitted that appropriate order be passed.

5. I have heard all learned counsel, perused the judgment and order dated 3rd December 2010 passed by the the Motor Accident Claims Tribunal, Sangli (for short “the Tribunal”) in MACP No. 29 of 2008.

5.1. While dealing with the issue of income of the deceased, considering the evidence on record, the Tribunal has considered the annual income of the deceased at Rs.4,00,000/- and the Tribunal has deducted 20% of it for income tax. I am unable to understand the observations of the Tribunal as Form No.16 in respect of salary income of the deceased and Income Tax Returns of the deceased at Exhibits - 66 and 67 produced on record, shows the income tax of Rs.19,543/- is deducted for amount of Rs.2,29,000/-. For Rs.4,00,000/- amount, the income tax would be Rs.39,000/-, hence, I am deducting Rs.39,000/- as income tax for Rs.4,00,000/- amount. The Tribunal has applied multiplier of 13 as per the age of the mother of the deceased. It is settled principle of law that it should be as per the age of the deceased. At the time of the accident, the deceased was 25 year old, hence, the proper multiplier is 18. I am considering the multiplier of 18.

5.2. The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled for Rs.48000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18000/- for funeral expenses.

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

Particulars	Rs.	Amount
Last drawn annual salary	Rs.	4,00,000.00
Total Income Tax Payable	Rs.	39,000.00
Actual Annual Salary	Rs.	3,61,000.00
50% Future Prospects	Rs.	1,80,500.00
Total	Rs.	5,41,500.00
1/2th deductions towards personal expenses	Rs.	2,70,750.00
TOTAL	Rs.	2,70,750.00
Rs.2,70,750/- x 18 (multiplier)	Rs.	48,73,500.00
Consortium (Rs.48000/- x 2 claimants)	Rs.	96,000.00
Loss of Estate	Rs.	18,000.00
Funeral Expenses	Rs.	18,000.00
Total Compensation.	Rs.	50,05,500.00

The Tribunal has awarded Rs.31,24,500/-, if this amount is deducted from the amount of Rs.50,05,500/- considered by this Court, it comes to Rs.18,81,000/-. The claimants are entitled for this amount.

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

O R D E R

1. The appeal is allowed.
2. The claimants are entitled for enhanced compensation of Rs.18,81,000/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.1,32,000/- 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 eight weeks from the receipt of this order.

4. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

5. The claimants shall pay deficit court fees on enhanced amount as per Rules.

7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)