IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 867 OF 2008

1	Anna @ Bajirao Ganpat Patil Age 51 years, Occ. Agriculture.		
2	Lilabai Anna @ Bajirao Ganpat Patil Age 46 years, Occ. Household Work, Both R/at. Haldi, Tal. Karveer, Dist. Kolhapur	…	Appellants
	Versus		
1	Pandurang Sakharam Patil Age Major, Occ. Agricuture, R/at. Devale, Tal.Karveer, Dist.Kolhapur.		
2	National Insurance Company Ltd. Div. Office, Cosmos Commercial Complex, Station Road, E Ward, Kolhapur. (Tractor Policy No.27807/31/05/06700000215) (Period from 11.04.05 to 10.04.06.) (Trailer Policy No.270807/31/05/0670000064) (Period from 2.7.05 to 1.7.06)	…	Respondents

Mr. Jayant J. Bardeskar i/b. Mr. Sameer S. Tambekar, Advocate for the Appellants.
Ms. Poonam Mital, Advocate for Respondent No.2-Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th MARCH, 2024.

Oral Judgment. :

1. The issues involved in this appeal are future prospects has not been awarded, consortium amount is awarded on lower side and application of wrong multiplier.

2. It is contention of learned counsel for the appellants/claimants that the Tribunal has not awarded future prospects and consortium amount is awarded on lower side. Learned counsel further submitted that, at the time of the accident, the deceased was 20 year old but the Tribunal has applied multiplier of parents of the deceased, which is erroneous. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.2-Insurance Company that while calculating compensation, the Tribunal has deducted 1/3rd amount for personal expenses, it should be 1/2th as the deceased was bachelor. Learned counsel further submitted that the Tribunal has considered all the aspects while passing the judgment and order, no interference is required in it. Hence, requested to dismiss the appeal.

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

5. While awarding compensation, the Tribunal has considered the monthly income of the deceased at Rs.3100/- 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 50% future prospects as the deceased was permanent employee.

5.1. The Tribunal has applied multiplier as per the age of the parents of the deceased, which is erroneous. It is settled principle of law that while calculating compensation, multiplier must be applied as per the age of the deceased, hence, I am considering the multiplier of 18 as the deceased was 20 year old at the time of the accident.

5.2. The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. Vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled for Rs.40,000/- as consortium amount, Rs.16,000/- for funeral expenses and Rs.16,000/- for loss of estate.

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

Particulars	Rs.	Amount
Annual Income of the deceased (Rs.3100/- pm x 12)	Rs.	37200.00
50% future prospects	Rs.	18600.00
Total	**Rs.**	**55800.00**
1/2th deductions towards personal expenses	Rs.	27900.00
Total	**Rs.**	**27900.00**
Rs.27900- x 18(multiplier)	Rs.	502200.00
Consortium (Rs.40000/- x 2 claimants)	Rs.	80000.00
Loss of Estate	Rs.	16500.00
Funeral Expenses	Rs.	16500.00
Total Compensation.	**Rs.**	**615200.00**

5.4. The Tribunal has awarded Rs.2,04,000/-, if this amount is deducted from the amount of Rs.6,15,200/- considered by this Court, it comes to Rs.4,11,200/-. 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. 4,11,200/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.1,13,000/- 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 court fees on enhanced amount as per Rule.

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

(SHIVKUMAR DIGE, J.)