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

FIRST APPEAL NO. 2131 OF 2005

1. Daya Jayramdas Shambhavani)
   Age: adult, Occ: Household)

2. Nilam Jayramdas Shambhavani)
   Age: 16 years, Occu: Education)

3. Puja Jayramdas Shambhavani)
   Age: 14 years, Occu: Education)

4. Roshan Jayramdas Shambhavani)
   Age: 12 years, Occu: Education)

Appellant Nos. 2 to 4 are minor)
through their Guardian Mother)
Appellant No.1)....Appellants

Versus

1. Hargundas Khubchand Shambhavani)
   Aged: Adult, Since deceased through)
   his legal heirs:)

1 a) Jagandas Hargundas Shambhavani)
Age: adult, Occu: Business)

1 b) Jamuna Shankardas Ranglani)
age: adult, Occu: Business)

1 c) Jagatram Hargundas Shambhavani)
age: adult, Occu: Business)

1 d) balaram Hargundas Shambhavani)
age: adult, Occu: Business)

1 e) Prakash Hargundas Shambhavani)
age: adult, Occu: Business)
Respondent Nos. 1 a to 1 d are)
R/o. H. No. 203-D, Old Budhgaon)
Road, Vakharbhag, Sangli.)

1 f) Lajwanti Hargundas Shambhavani) Appeal stand
age: adult, Occu: Household) abated as
R/o. H. No. 203-D, Old Budhgaon) against R.No.1
Road, Vakharbhag, Sangli) f) Vide Registrar
order dated
08.07.2014

~~2. Annaraya bavsantray Ramanalli~~)
~~age: adult, Occu: Driver,~~)
~~R/o. Kakkanmeli, Tal. Sindagi~~)
~~Dist: Bijapur~~)

3. Abdulkalam Haji Osman Mulla)
age: adult, Occu: Business)
R/o. Charminar Road Lines Udgaon)
Tal: Shirol, Dist. Kolhapur)

4. United India Insurance Co. Ltd.)
Having its branch at 901, Shinde)
Building, Shivaji Road, Miraj.)

5. Arjundas Nanakram Shambhavani)
Age: adult, Occu: Business)
R/o. Lane in front of Dr. Kotnis)
Near Dr. Bapat Bal Shikshan Mandir,)
Sangli.)

6. Suresh Mahadeo Bhosale)
age: adult, Occu: Business)
R/o. Ahiyla Nagar, behind Vasant)
Dada Sugar Factory, Sangli.)

7. United India Insurance Co. Ltd.)

Having its branch at Sangli.)
....Respondents

Ms. Bhavika Shinde i/b Mr. Umesh Mankapure, Advocate for the Appellant.
Smt. Urmila K. Sanil, Advocate for the Respondent No.4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th JANUARY, 2024.

Oral Judgment. :

1. The issues involved in this appeal are income of deceased is considered on lower side and future prospects are not awarded and consortium amount is awarded on lower side and multiplier is not applied properly.

2. It is contention of learned counsel for the Appellants/Claimants that deceased was earning Rs.3,000/- per month. The evidence was produced on record to prove the income of deceased but, the Tribunal has considered monthly income of the deceased at Rs.1200 per month, which is on lower side. Learned counsel further submitted that while awarding compensation, the Tribunal has not considered future prospects, it be awarded. Learned counsel

further submitted that the Tribunal has awarded consortium amount on lower side, it be awarded. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent/Insurance Company that considering evidence on record, the Tribunal has considered income of the deceased properly and no interference is required in it. Learned counsel further submitted that while awarding compensation the Tribunal has considered all the aspects and on that basis, reasoned judgment and order is passed 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, Sangli (for short “the Tribunal”).

5. It is claimant’s case that deceased was running shoemart and he was earning Rs.3,000/- per month. To prove the income of deceased, the Claimants have examined the Claimant No.1 Daya Shambhavani at Exhibit-66, she has stated that the deceased was dealing in business of foot wear. He had shop in Mahadeo Nagar, his

monthly income was of Rs.3,000/-. In cross-examination, she has stated that her husband had licence to run the shop and licence was renewed in her name. She has denied the suggestion that shop is still running. To prove the income of deceased, the income tax returns are filed on record.

6. Considering the evidence on record, the Tribunal has considered monthly income of deceased at Rs.1200/- per month. In my view, it is on lower side. As, it has come on record that deceased was running shoemart and after his death the PW-1 has stated that the said shoemart is closed. Though, she has stated that licence of shoemart is in existence but, no evidence produced on record to show that shoemart was running. Considering evidence on record, I am considering monthly income of the deceased at Rs.2,000/- per month. 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.48,000/- for consortium amount and Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. 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 40% future prospects. The Tribunal has not applied proper multiplier. At the time of accident, deceased was 26 years old so, the proper multiplier is 17.

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

Monthly income	Rs.2000/-
Annual Income (Rs.2000/- X 12)	Rs.24,000/-
Add: 40% future prospects	Rs.9,600/-
Total amount	Rs.33,600/-
1/4th Deduction for personal expenses	Rs.8,400/-
Total income	Rs.25,200/-
Multiplier 17 (Rs.25,200/- X 17)	Rs.4,28,400/-
Loss of consortium Rs.48,000/- X 6 (claimants)	Rs.2,88,000/-
Loss of estate	Rs.18,000/-
Funeral expenses	Rs.18,000/-
Total compensation	Rs.7,52,400/-
Less awarded by the Tribunal	Rs.2,02,300/-
Enhanced amount	Rs.5,50,100/-

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

ORDER

i. Appeal is allowed.

ii. The Claimants are entitled for enhanced amount of Rs.5,50,100/- @ 7.5% per annum from the date of filing claim petition till realisation of the amount. Out of this amount consortium amount is Rs.3,24,000/-, the claimants are entitled @ 7.5% interest on this amount, from 1st November, 2017, till realisation of amount.

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

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

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

(SHIVKUMAR DIGE, J.)