

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

FIRST APPEAL NO.1291 OF 2006

1. Baburao Ishwara Latawade Age-51 years, Occupation : Service, R/o. Jaysingpur Housing Society, Jaysingpur, Taluka-Shirol, District-Kolhapur.	}	(As Per Court Order dated 20/2/2024 in IA 1804/2024, Appellant no.1 is deleted with permission of the Court. Amendment is carried out forthwith on 20/2/2024) (Org. Petitioners) ...Appellants
2. Sou.Shakuntala Baburao Latawade, Age-46 years, Occupation : Household, R/o. Jaysingpur Housing Society, Jaysingpur, Taluka-Shirol, District-Kolhapur	}	
<i>Versus</i>		
1. Sharadchandra Gulabchand Shah Age-Major, Occupation : Business, R/o. Shirdhon, Taluka-Kavthe Mahankal, District-Sangli.	}	
2. Ashok Yamnappa Magire, Age-Major, Occupation: Driver, R/o. Chandanwadi, Taluka-Miraj, District- Sangli.	}	
3. The Manger, The New India Assurance Co. Ltd., Sangli.	}	Respondents

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Mr.N.J. Patil , for the Appellants.

Ms.Mrinal Shelar i/b Mr.S.S. Patwardhan, for Respondent Nos.1 and 2.

Mr.D.S. Joshi, for Respondent No.-3.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 20th FEBRUARY, 2024.

ORAL JUDGMENT :-

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

2. It is contention of the learned counsel for the Appellant-Claimant that, the deceased was only son of the Appellants. He was studying in F.Y.B.A. At the time of the accident he was 19 years old. The Tribunal has considered his annual income at Rs.15,000/- per annum, which is on lower side.. The learned counsel further submitted that, the Tribunal has not awarded future prospects and multiplier is applied wrong. The Tribunal has awarded consortium amount on lower side, it be awarded. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for Respondent-Insurance Company that, the deceased was taking education, hence, no question of his income arise. The income considered by the Tribunal is proper. While awarding compensation the Tribunal has considered all the aspects, on that basis judgment and order is passed, which is legal and valid. No interference is required in it. Hence, requested to

dismiss the Appeal.

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

5. It is Claimant's case that, the deceased was studying in First Year B.A. While considering income of the deceased the Tribunal has considered notional monthly income of deceased at Rs.15,000/- per annum. In my view, it is on lower side. Hence, I am considering Rs.4,000/- per month as notional income of deceased. At the time of the accident deceased was 19 years old, the proper multiplier is 18. But the Tribunal has applied 13, which is erroneous. 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, the Claimant's are entitled for future prospects. The Tribunal has awarded consortium 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, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. Considering these

1 2017 ACJ 2700 (SC)

2 2018 ACJ 2782 (SC)

calculation's the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Income	Rs.4,000.00
Annual Income (Rs.4,000/- x 12)	-----
	Rs.48,000.00
Deduction ½ (bachelor)	Rs.24,000.00
Future Prospects (40%)	Rs.9,600.00

	Rs.33,600.00
Multiplier (19 years) 18	Rs.6,04,800.00
Conventional Head	
Consortium : 48,000.00 x 2	
Funeral Expenses : 18,000.00	
Loss of Estate : 18,000.00	Rs.1,32,000.00
Compensation Granted	Rs.7,36,800.00
(-) Enhancement	Rs.1,85,000.00
Total	Rs.5,51,800.00

6. The Claimant's are entitled for Rs.5,51,800/-.

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimants are entitled for enhanced compensation of Rs.5,51,800/- @ 7.5% per annum from the date of the filing of Claim Petition till realization of the

amount. Out of this amount Rs.1,32,000/- is consortium amount. The Claimant's are entitled for interest @ 7.5% on this amount from 1st November 2017 till realization of the amount.

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

(iv) The Claimants are permitted to withdraw the deposited amount alongwith interest.

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

(SHIVKUMAR DIGE, J.)