

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

FIRST APPEAL NO. 1498 OF 2016

The New India Assurance Co. Ltd.)
T. P. Claims Hub, 41-B,)
Maker Tower “E”, Near World Trade Centre,)
Cuffe Parade, Mumbai 400 005)....Appellant

Versus

1. Hemlata Dattatray Jagtap)
Age: 45 years, Occ: Nil)
2. Shailendra Dattatray Jagtap)
Age: 22 years, Occ: education)
3. Leena Dattatray Jagtap)
Age: 26 years, Occ: Nil)
4. Akkatai Jagannath Jagtap,)
Age: 60 years, Occ: Nil)
All resident of Bastavde, Taluka Tasgaon,)
District: Sangli)
5. Manik Rajaram Salunkhe,)
Age: 40 years, Occ: Transport)
(Owner of Cruzer Jeep No. MH-13-AH-5065))
6. Shivaji Vitthal Shinde)
resident of At post Tisangli, Taluka Kavthe)
Mahankal, District- Sangli.)....Respondent
(Driver of Cruzer Jeep No. MH-13-AH-5065))

Ms. Poonam Mital, Advocate for the Appellant.

Mr. Suyash S. Sule i/b Mr. Drupad Patil, Advocate for the Respondent Nos. 1 to 4.

Mr. S. M. Bhavar a/w Mr. Anilkumar Patil, Advocate for the Respondent No.6.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th JANUARY, 2024.

Oral Judgment. :

1. The issue involved in this appeal is compensation awarded by the Tribunal is on higher side.

2. It is contention of learned counsel for the Appellant that the Tribunal has awarded compensation under the non conventional head of Rs.3,75,000, which is on higher side, it should be 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)*** .

3. It is contention of learned counsel for the Respondents/Claimants that the Claimants have not filed cross-objection for enhancement of compensation hence, the compensation

awarded by the Tribunal is proper 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. While awarding compensation, the Tribunal has awarded Rs.3,75,000/- for loss of love and affection and funeral expenses, which is on higher 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/- as consortium amount and Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. There are four claimants, the total it comes to Rs.2,28,000/- if this amount deducts from the amount of Rs.3,75,000/-, it comes to Rs.1,47,000/- it is excess amount.

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

ORDER

- i. Appeal is partly allowed.

- ii. Appellant is permitted to withdraw Rs.1,47,000/-
along with proportionate interest.
 - iii. The claimants are permitted to withdraw the
balance amount along with proportionate interest.
 - iv. The statutory amount be transmitted to the Tribunal
along with accrued interest thereon. The parties are
at liberty to withdraw it, as per Rule.
7. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)