

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

FIRST APPEAL NO. 942 OF 2004

- | | | |
|--|-----------------|--|
| 1. Vilas Balwant More |) | |
| Age: 35 years, Occ: Labour. |) | |
| Residing at Morewadi, Taluka: Karvir, |) | |
| District: Kolhapur |) | |
| | | |
| 2. Sharada Vilas More |) | |
| Age: 32 years, Occ: Household, |) | |
| Residing at Morewadi, Taluka : Karvir, |) | |
| District: Kolhapur |) | |
| | | |
| 3. Radhika Vilas More, |) | |
| Age: 10 years, Occ: Education, |) | |
| Residing at Morewadi, Taluka : Karvir, |) | |
| District: Kolhapur |) | |
| Through her Guardian Appellant No.1 |)....Appellants | |

Versus

- | | | |
|--|---|--|
| 1. B. Mallikarjun Rao Nageshwara Rao |) | |
| Occ: Truck Owner, Residing at Ramlingeshwar, |) | |
| Door No. 61-25/2-1, Vijaywada, Andhra Pradesh) | | |
| | | |
| 2. National Insurance Co. Ltd, |) | |
| Branch Office at 11, Labbipata, |) | |
| Vijaywada, Andhra Pradesh. |) | |

3. Ashok Waman Mane, (Deleted).)
Adult Occ: Driver, Residing at Washinaka)
District: Kolhapur)....Respondents

Mr. Yuvraj P. Narvankar a/w Ms. Raufa Shaikh, Advocate for the Appellants.

Ms. Poonam Mital, Advocate for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th FEBRUARY, 2024.

Oral Judgment. :

1. By way of this appeal, the Appellants/Claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the Appellants/Claimants that at the time of accident, the deceased was 12 years old. The Tribunal has considered his notional yearly income at Rs.3,000/- per annum, which is on lower side. Learned counsel further submitted that the Tribunal has awarded consortium amount on lower side and future prospects is not awarded by the Tribunal. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent No.2/Insurance Company that as deceased was 12 years old, the income considered by the Tribunal is proper. Learned counsel further submitted that as per the view of Hon'ble Apex Court in the case of *Meena Devi vs. Nunu Chand Mahto @ Nemchand Mahto & Ors. (2023) SCC 1 204*, the Claimants are entitled for Rs.5,00,000/- as a compensation.

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

5. At the time of accident, deceased was 12 years old, the Tribunal has considered Rs.3,000/- notional yearly income of the deceased. In my view, it is on lower side. As per the view of Hon'ble Apex Court in the case of Meena Devi (supra) the claimants are entitled for the compensation of Rs.5,00,000/-. In this case the deceased was 12 years old. The facts of cited case by the learned counsel for the Respondent is squarely applicable to the present case hence, I am awarding Rs.5,00,000/- as compensation to the

Claimants.

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

ORDER

- i. Appeal is allowed.
 - ii. The Claimants are entitled for Rs.5,00,000/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
 - iii. The Respondent No.2/Insurance company shall deposit the enhanced amount along with accrued interest thereon.
 - iv. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
7. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)