

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1005 OF 2010

1	Smt. Aruna Ashok Yadav Age : 30 years, Occ : Household	))	
2	Ku. Sagar Ashok Yadav Age : 14 years, Occ : Education	))	
3	Ku. Komal Ashok Yadav Age : 15 years, Occ : Education	))	
4	Smt. Krishnabai Rajaram Yadav Age : 75 years, Occ : Nil All residents of Kesurdi, Post Naigaon, Tal . Khandala, Dist : Satara	)))))	Appellants
	versus		
1	Shri Satbir Singh Age : Adult, Occ : Business Tanker Owner, R/o. 73, Sangsm Apartment, Paschim Vihar, New Delhi-53 (Dead vide exh. 11)	)))))	
2	The Oriental Insurance Co. Ltd. Divisional Office, Keshav-Sona Complex, Near Jay-Vijay Talkies, Satara	)))	Respondents

Mr. Sangramsingh Yadav, Advocate for the Appellants.

Mr. Sanjay Krishnan i/b. Legus Consultants, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 9th MAY, 2024.

Oral Judgment :

1. The issues involved in this appeal are compensation amount is awarded on lower side, future prospects has not been awarded and

consortium amount is awarded on lower side.

2. It is contention of learned counsel for the appellants/claimants that the Tribunal has awarded compensation on lower side. The Tribunal has deducted 1/3rd amount as personal expenses, it should be 1/4th. The Tribunal has not awarded interest on compensation amount, it be awarded. Learned counsel further submitted that the Tribunal has not awarded future prospects and consortium amount is awarded on lower side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.2- Insurance Company that the Tribunal has applied wrong multiplier of 16, it should be 14. He further submitted that the Tribunal has considered all the aspects while passing the judgment and order, no interference is required in it.

4. I have heard both learned counsel, perused the judgment and order dated 20th April 2010 passed by Motor Accident Claims Tribunal, Satara in M.A.C.P. No.411 of 2005 (for short "the Tribunal").

5. It is the claimant's case while awarding compensation, the Tribunal has deducted 1/3rd amount for personal expenses. There are four claimants, it should be 1/4th amount. Hence, I am considering 1/4th amount for personal expenses.

5.1. 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 claimants are entitled for 40% future prospects.

5.2. The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC), each claimant is entitled for Rs.48000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18000/- for funeral expenses.

5.3. The Tribunal has not awarded interest on compensation amount. While awarding interest on compensation amount, the Tribunal has observed that the delay was caused due to non-service of notice on respondent No.1. In my view, when the Tribunal has observed that service was not effected on respondent No.1 due to his death, the Tribunal should have awarded interest on compensation amount. Hence, the claimants are entitled for interest @ 7.5% on compensation amount from the date of filing of claim petition till realisation of the amount.

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

Particulars	Amount
Monthly Income (Rs.3000/- x 12 months)	Rs. 36000.00
40% future prospects	Rs. 14400.00
Total	Rs. 50400.00
¼ deduction towards personal expenses	Rs. 12600.00
Total	Rs. 37800.00

Total Dependency (Rs.37800/- x 14 multiplier)	Rs.	529200.00
Consortium (Rs.48,000/- x 4 (claimants))	Rs.	192000.00
Funeral Expenses and Loss of Estate	Rs.	36000.00
Total Compensation	Rs.	757200.00

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The Tribunal has awarded Rs.3,93,500/-, if this amount is deducted from the amount of Rs.7,57,200/- considered by this Court, it comes to Rs.3,63,700/-. 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 interest @ 7.5% interest per annum on Rs.3,93,500/- from the date of filing claim petition till realisation of the amount.
3. The claimants are entitled for enhanced compensation of Rs. 3,63,700/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.2,28,000/- 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.
4. The respondent No.2-Insurance Company shall deposit

the interest amount @ 7.5% interest per annum on Rs.3,93,500/- and enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.

5. The claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.
6. The claimants shall pay court fees on enhanced amount as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)