IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1775 OF 2013

1	Satyawa Gensidh Ghodke Age 32 years, Widow of deceased.		
2	Ambika Gensidh Ghodke, Age 14 years, Daughter of the deceased.		
3	Bhagyashri Gensidh Ghodke, Age 11 years, Daughter of the deceased.		
4	Vishwanath Gensidh Ghodke, Age 8 years, Son of the deceased.		
5	Anusaya Ganpati Ghodke, Age 60 years, Mother of the deceased, Applicant Nos.2 to 4 are minors. Applied through their Mother-Applicant No.1 All R/at Dindur, Post Dhotre, Tal. South Solapur, District Solapur	…	(Org.Claimants) Appellants
	Versus		
1	Baba Kashim Shaikh, R/at Khwaja Nagar, Galli No.3, Osmanabad, Tal. & Dist. Osmanabad.		
2	United India Insurance Co.Ltd., 918/4, Naldurga Road, Below Osmanabad Janata Sha. Bank, Opp. Panchayat Samiti, Tuljapur.		
3	Ram Mukesh Mane, Age – Adult, Occu.-Driver, R/at A/p. Mhatrewadi, Tal. Bhum, Dist. Osmanabad.	…	Respondents

Ms. Ketki Gokhale i/b. Mr. Avinash M. Gokhale, Advocate for the Appellants.
Ms. Poonam Mital, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 1st MARCH, 2024.

SHUBHADA SHANKAR KADAM

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Oral Judgment :

1. By way of this appeal, the claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the appellants/claimants that the deceased was doing agricultural work and he was the owner of agricultural land and his annual income was Rs.1,00,000/- but the Tribunal has considered Rs.3000/- as his monthly income, which is on lower side. Learned counsel further submitted that the Tribunal has not awarded future prospects and consortium amount is awarded on lower side, it be awarded, hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.2-Insurance Company that no evidence was produced on record to prove the income of the deceased. The income considered by the Tribunal is proper. Learned counsel further submitted that, at the time of the accident, the deceased was 40 year old, the proper multiplier is 15 but the Tribunal has wrongly applied multiplier of 16, it be reduced to 15. Learned counsel submitted that while passing the judgment and order, the Tribunal has considered all the aspects, no interference is required in it.

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

5. To prove the income of the deceased, the claimants have examined claimant No.1 – Smt. Satyawa Ghodke at Exhibit-22. She has stated that the deceased was earning Rs.1,00,000/- per annum from his agricultural land and the entire family was depending on the income of the deceased. She further stated that the deceased was cultivating his land and he was also doing labour work on other farmers' land and was earning Rs.150/- to Rs.200/- per day as per season. The net income of the deceased was Rs.8,000/- per month. In the cross-examination, she has admitted that she has no documents to show that her husband was getting Rs.200/- per day and, in all, Rs.1,00,000/- per annum from the agricultural land. She admitted that the agricultural land of the deceased was jirayat land.

6. Considering the evidence on record, the Tribunal has considered the monthly income of the deceased at Rs.3,000/- per month. In my view, it is on lower side. The claimants have produced 7/12th extract. In my view, the deceased was maintaining family of six persons. There is no reason to disbelieve the evidence of the wife of the deceased. Considering the evidence on record, I am considering Rs.4,000/- as monthly income of the deceased.

6.1. While awarding compensation, 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 to 25% future prospects.

6.2. 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.

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

Particulars	Rs.	Amount
Annual Income of the deceased (Rs.4000/- pm x 12)	Rs.	48000.00
25% Future Prospects	Rs.	12000.00
Total	Rs.	60000.00
1/4th deductions towards personal expenses	Rs.	15000.00
Rs.45000/- x 15(multiplier)	Rs.	675000.00
Consortium (Rs.48000/- x 5 claimants)	Rs.	240000.00
Loss of Estate	Rs.	18000.00
Funeral Expenses	Rs.	18000.00
Total Compensation.	**Rs**	**9,51,000.00**

6.4. The Tribunal has awarded Rs.4,36,000/-, if this amount is deducted from the amount of Rs.9,51,000/- considered by this Court, it comes to Rs.5,15,000/-. The claimants are entitled for this amount.

7. 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 enhanced compensation of Rs. 5,15,000/- @ 7.5% interest per annum from the date

of filing claim petition till realisation of the amount. Out of this amount, Rs.2,76,000/- 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.

3. Respondent No.2 – Insurance Company shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.

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

5. The claimants shall pay court fees on enhanced amount as per Rules.

8. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)