

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1160 OF 2018

Reliance General Insurance Company Limited
 Through its Corporate Office
 4th Floor, Chintamani Avenue, Off Western Express
 Highway, Goregaon-East, Mumbai

... Appellant

Versus

- 1 Sangeeta Bhimrao Mane
Age – 40 years, Occupation : Household
- 2 Sheetal Bhimrao Mane
Age 20, Occupation : Household
- 3 Aakash Bhimrao Mane
Age 18, Occupation : Household
- 4 Uttam Tukaram Mane
Age – 74, Occupation - Nil
- 5 Saubai Uttam Mane
Age - 64, Occupation : Household
All Resident of Shedgewadi, Taluka Khanapur,
District : Sangli
- 6 Piyushbhai Rameshbhai Lahure
Age – Major, Occupation : Business
Resident of 11, Patel Colony, Road No.2,
Gandhinagar, Main Road, Jamnagar, Gujarath
- 7 Rameshbhai Shankarbhai Solanki
Age – Major, Occupation – Service
Resident of Mahuva Road at S. Kundala
Amreli 364 515, Gujarath State

... Respondents

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Mr. Rahul Mehta i/b. KMC Legal Venture, Advocate for the Appellant.
 Ms. Snehal Jadhav i/b. Mr. Siddharth Shitole, Advocate for Respondent
 Nos. 1 to 5.

CORAM : SHIVKUMAR DIGE, J.
DATED : 2nd DECEMBER, 2024.

ORAL JUDGMENT :

1. The issues involved in this appeal are interest rate is given on

higher side, the income of the deceased is considered on higher side and compensation awarded under the head of loss of estate is on higher side.

2. It is contention of learned counsel for the appellant-Insurance Company that the deceased was working as a driver, but the Tribunal has considered his monthly income @Rs.6,000/- p.m. without any evidence on record which is on higher side. Learned counsel further submitted that the Tribunal has awarded 9% interest on compensation amount which is on higher side. Learned counsel further submitted that the Tribunal has awarded Rs.60,000/- towards loss of estate which is on higher side, hence requested to allow the appeal.

3. It is contention of learned counsel for the respondent Nos. 1 to 5/claimants that the deceased was working as a driver in Hind Cement Pipe and Concrete Works and he was earning salary of Rs.6,000/- per month. He was also getting bhatta and overtime, but the Tribunal has not considered bhatta and overtime and has considered monthly salary of Rs.6,000/- per month which is proper. Learned counsel further submitted that the Tribunal has not awarded consortium amount to all the claimants, it be awarded.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Sangli (for short "the Tribunal"). To prove the income of the deceased the claimants have

examined PW-1, wife of deceased. She has stated that deceased was working as a driver in Hind Cement Pipe and Concrete Works and he was getting salary of Rs.6,000/-pm. He was also getting bhatta and overtime. Nothing elicited in the cross examination of this witness. The claimants have examined PW-2 Suraj S. Nadaf, Assistant Manager of Hind Cement Pipe and Concrete Works at Exhibit-53. He has stated that the deceased had left his service from 10.12.2008 and accident took place on 18.01.2009.

The claimants have examined PW-3 Chandrakant Shinde. He has stated that the deceased was working in the Hind Cement Pipe and Concrete Works till 2008 as a driver and was earning Rs.6,000/- p.m. salary. He further stated that at the time of accident deceased was working as truck driver at Ajantha Transport, Satara. Considering the evidence on record, the Tribunal has considered monthly income of the deceased at Rs.6,000/- per month. I do not find infirmity in it. In my view, the deceased was driver, he was maintaining family of six persons including himself. He was skilled worker. It has come on record that he was getting salary of Rs.6,000/- p.m. along with bhatta and overtime. Considering these facts, the income of the deceased considered by the Tribunal is proper and no interference is required in it.

The Tribunal has awarded Rs.60,000/- for loss of estate it 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.40,000/- as consortium amount, Rs.15,000/- for funeral expenses and Rs.15,000/- loss of estate. The Tribunal has awarded interest of 9% p.a.. In my view it is on higher side. Hence I am considering rate of interest @7.5% p.a.

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

Particulars	Rs.	Entitlement
Monthly Income	Rs.	6,000/-
Annual Income	Rs.	72,000/-
1/4 th deduction for personal expenses	Rs.	18,000/-
Annual Income (72,000-18,000)	Rs.	54,000/-
Annual Income X 14 (Multiplier)	Rs.	7,56,000/-
Loss of 25% future prospects	Rs.	1,89,000/-
Loss of consortium (40,000 X 5 claimants)	Rs.	2,00,000/-
Loss of Estate	Rs.	16,000/-
Funeral Expenses	Rs.	16,000/-
Total	Rs.	11,77,000/-
Compensation awarded by the Tribunal	Rs.	10,60,000/-
Total Enhanced amount	Rs.	1,17,000/-

Considering the above calculations, claimants are entitled for enhanced amount of Rs. 1,17,000/-.

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

ORDER

- (i) The appeal is partly allowed.
- (ii) The claimants are entitled @7.5% interest on the compensation amount instead of 9% interest. The appellant- Insurance company is permitted to withdraw the excess interest amount. The claimants are permitted to withdraw compensation amount deposited by the appellant -Insurance company @7.5% p.a.
- (iii) The claimants are entitled for enhanced compensation amount of Rs. 1,17,000/- @7.5% interest per annum from 1st November, 2017 till realisation.
- (iv) The appellant -Insurance Company shall deposit enhanced amount along with interest within six weeks.
- (iv) Statutory amount be transferred to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per rule.
- (v) R & P be sent back to the Tribunal.

7. The appeal is disposed of. Pending applications, if any, also disposed of.

(SHIVKUMAR DIGE, J.)