IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1190 OF 2014

	Chhaya Vishnu Dhanavade, Age 68 years, Occupation – Household, Residing at Mohare, Taluka – Shirala, District – Sangli.	…	Appellant (Org.Applicant)
	versus		
1	Rajendra Ganapati Bhadange, Age 32 years, Occupation – Driver, Residing at Govandi Vasahat Sakori, Taluka – Rahata, District – Ahmednagar.		
2	Anil Harbasanlal Batta Age – Major, Occ. Truck Owner, Residing at Rahat, Taluka – Rahata, District – Ahmednagar.		
3.	The New Indian Insurance Co. Ltd., Divisional Office at Ahmednagar, Para Plaza, in front of Shivaji Cross Road, Ahmednagar. Summons to be served on below Address : Mata Building, Near Trikori Bag, p Civil Hospital Road, Sangli.	….	Respondent (Org. Opponents)

Mr. Sambhaji Namdeo Sawant along with Mr. S. M. Kamble, Advocate for the Appellant.
Mr. Shubham Misar i/b. Mr. H. G. Misar, Advocate for Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 1st APRIL, 2024.

Oral Judgment:

1. By this appeal, the appellant/claimant is seeking enhancement of compensation.

2. It is contention of learned counsel for the appellant/claimant that the deceased was working in Salvo Chem India Private Limited as Chemical Engineer and he was earning Rs.15,000/- per month but the Tribunal has considered loss of dependency at Rs.2000/- per month, which is on lower side. Learned counsel further submitted that the Tribunal has not awarded future prospects, wrong multiplier is applied and consortium amount is awarded on lower side. Hence, requested to allow the appeal.

3. Learned counsel for respondent No.3-Insurance Company submitted that the claimant, in cross-examination, has admitted that deceased was paying Rs.2000/- for household expenses, on that basis, the Tribunal has considered monthly income of deceased at Rs.2,000/- which is proper. Learned counsel further submitted that while passing the judgment and order, the Tribunal has considered all the aspects, hence, no interference is required in it.

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

5. To prove the income of the deceased, the claimant- Chhaya Dhanavade has examined herself. She has stated that deceased was chemical engineer and he was working as Chemical Engineer and

earning Rs.15,000/- per month. In cross-examination, she has admitted that deceased was giving her Rs.2,000/- per month. In support of her evidence, the claimant has examined PW2-Sameer Raidhane at Exhibit-34, the Director of Salvo Chem India Private Ltd, MIDC, Malegaon. He has stated that deceased – Vivek was working in their company as chemical engineer and he was paying him Rs.15,000/- per month. The salary certificate is at Exhibit-35. In cross-examination, this witness has admitted that he has not brought documents with him regarding payment of deceased. He further admitted that he is not able to say that whether the deceased was receiving salary as gross salary. While dealing with the issue of income of the deceased, the Tribunal has observed that in cross-examination, the claimant has admitted that the deceased was sending her Rs.2000/- per month, on that basis, the Tribunal has considered Rs.2,000/- as monthly income of the deceased. I am unable to understand the observations of the Tribunal as the deceased was chemical engineer. PW2 has stated that deceased was working in their company. The salary certificate of the deceased is produced on record, which shows the salary of deceased. The claimant has stated that deceased was working as chemical engineer in Company. The evidence of PW2 supports the evidence of claimant. Considering the evidence on record, I am considering monthly income of the deceased at Rs.10,000/- per month.

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 claimant is entitled for 50% 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. In view of above, the claimants are entitled for following compensation :

Particulars	Rs.	Amount
Monthly Salary Income	Rs.	10,000.00
50% future prospects	Rs	5,000.00
Total	Rs	15,000.00
1/3rd deduction for personal expenses	Rs.	5,000.00
Total	Rs.	10,000.00
Rs.10000/- x12 (months) x 16 (multiplier)	Rs.	19,20,000.00
Consortium (Rs.48000/- x 1 claimant)	Rs	48,000.00
Loss of Estate	Rs	18,000.00
Funeral Expenses	Rs	18,000.00
Total Compensation.	Rs	**20,04,000.00**

The Tribunal has awarded Rs. 1,88,000/-, if this amount is deducted from the amount of Rs.20,40,000/- considered by this Court, it comes to Rs.18,16,000/-. 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 appellant/claimant is entitled for enhanced compensation of Rs.18,16,000/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.84,000/- 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. Respondent No.3-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.
5. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
6. The claimant shall pay court fees on enhanced amount as per Rule.

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

(SHIVKUMAR DIGE, J.)