IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.540 OF 2015

1. Smt.Rupali Satish Shinde Age-31 years, Occ : Housewife	} }	
2. Kum.Komal Satish Shinde Age-14 years, Occ : Education	} }	
3. Kum.Aishwarya Satish Shinde Age-11 years, Occ : Education Appellant Nos.2 and 3 as a minor through their mother natural Guardian-Appellant No.1 All R/o. Flat No.18, Goreram Co. Op. Hsg. Sco., Goreram Lane, Nashik, District-Nashik.	} } } } } }	(Org. Applicants) **....Appellants**
Versus		
1. Shri.Sandip Shridhar Dhakane Age-42 years, Occ: Motor Owner, R/o. Pannal Sathe, Post-Raipur, Taluka-Yeola, District-Nashik-422001	} } } }	
2. The Manger, **United India Insurance Co. Ltd.,** Yashodhan Compex, Opposite Science College, Satara.	} } } }	
3. Shri.Nanaso Krishna Shinde Age-76 years, Occ : Agriculturist	} }	
4. Sou.Vachhala Nanaso Shinde Age-72 years, Occ : Household Nos.3 and 4 R/o. Morale, Taluka-Khatav, District-Satara.	} } } }	(Org. Opponents) **....Respondents**

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Mr.Sharad T. Bhosale , for the Appellants.
Mr.Ketan Joshi, for Respondent No.2.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 20th FEBRUARY, 2024.

ORAL JUDGMENT :

. By way of this Appeal the Claimant's are seeking enhancement of the compensation.

2. It is contention of the learned counsel for the Appellants-Claimant's that, the deceased had jewellery shop and he was earning Rs.30,000/- per month from the said business, but the Tribunal has considered monthly income per month at Rs.12,000/-, which is on lower side. The learned counsel further submitted that, the Tribunal has awarded future prospects and consortium amount on lower side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Appellant-Insurance Company that the Tribunal has considered all the aspects while passing judgment and order. Hence, no interference is required in it.

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

5. To prove the income of deceased the Claimant's have examined Claimant No.1-widow of deceased. She has stated that, deceased was doing business of jewellery and refinery under the name and style of 'Ayodhya Jewellers and was earning Rs.30,000/- per month from the said business. In cross-examination she has admitted that, her husband was not maintaining accounts and she has not mentioned specifically that business of jewellery is closed down after the death of her husband. In support of evidence of PW-1, the claimant's have examined PW-2 Murlidhar Nagpure, Tax Consultant at Exhibit-48. He has stated that, the deceased was filing Income Tax Returns through him. The Income Tax Returns from the year 2008 to 2011 are at Exhibit-49,50 and 51. This witness admitted that, the Income tax Returns of 2010-2011 is filed after the death of the deceased. It is at Exhibit-49.

6. While dealing with the issue of income of the deceased the Tribunal has observed that, the occupation of the deceased has been established before the Court. Considering the Income Tax Returns filed on record the Tribunal has considered monthly income of deceased at Rs.12,000/- per month. In my view it is on lower side.

From the Income Tax Returns it appears that income of deceased was more than Rs.12,000/- and it was upto Rs.30,000/- per month. Considering the evidence on record, I am considering Rs.14,000/- as monthly income of deceased. While awarding compensation the Tribunal has not awarded future prospects. As per view of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. V/s. Pranay Sethi***[1]***,*** the Claimants are entitled for 25% future prospects, as deceased was 40 years old at the time of the accident. The Tribunal has awarded consortium amount on lower side. As per view of Hon'ble Apex Court in case of ***Magma General Insurance Co. Ltd. V/s. Nanu Ram***[2]***,*** each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. Considering this calculation the Claimants are entitled for following compensation.

Particulars	**Amount**
Monthly Income	Rs.14,000.00
(+) Future Prospects (25% - Age 40 Yrs)	Rs.3,500.00 ----------------
	Rs.17,500.00
(-) 1/4th Deduction	Rs.4,375.00
Total Monthly Income	**Rs.13,125.00**

1 2017 ACJ 2700 (SC)
2 2018 ACJ 2782 (SC)

Future Prospects Rs.13,125/- x 12 x 15	**Rs.23,62,500.00**
Consortium (Rs.48,000 x 5)	Rs.2,40,000.00
Loss of Estate	Rs.18,000.00
Funeral Expenses	Rs.18,000.00
Total Just Compensation Payable	**Rs.26,38,500.00**
Tribunal Awarded (-)	Rs.16,88,000.00
Enhanced amount	**Rs.9,50,500.00**

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

<u>ORDER</u>

(i) The Appeal is allowed.

(ii) The Claimants are entitled for enhanced compensation of Rs.9,50,500/- @ 7.5% per annum from the date of the filing of Claim Petition till realization of the amount. Out of this amount Rs.2,76,000/- is consortium amount. The Claimant's are entitled 7.5% interest per annum on this amount form 1st November 2017 till realization of the amount.

(iii) The Respondent-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within 8 weeks after receipt of this order.

(iv) The Claimants are permitted to withdraw the deposited amount alongwith interest.

(v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)