

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 273 OF 2017

- | | | | |
|--------|---|------|-------------|
| 1 | Sachin Shamrao Katkar |) | |
| | Age : 38 years, Occ : Workshop |) | |
| 2 | Kiran Shamrao Katkar |) | |
| | Age : 35 years, Occ : Workshop |) | |
| 3 | Shamrao Ramchandra Katkar |) | |
| | Age : 68 years, Occ: Nil |) | |
| | All r/o. Old Dhamani Road, Prabhuraj Colony, |) | |
| | Sangli, Tal. Miraj, District : Sangli |)... | Appellant |
| versus | | | |
| 1 | The New India Insurance Company Ltd. |) | |
| | Notice to be issued on Regional Office 1036, E |) | |
| | Deccan House, Rajarampuri Road, Kolhapur, |) | |
| | Dist. Kolhapur |) | |
| 2 | Ganesh Namdev Chavan |) | |
| | Age : Adult, Occ : Agriculturist, |) | |
| | R/o. 150/A, New Vasahat, Nagrale, Tal. Palus, |) | |
| | Dist. Sangli |) | |
| 3 | Sanjay Mugutrao Patil |) | |
| | Age : 43 years, Occ : Driver, |) | |
| | R/o. Nagrale, Tal. Palus, District : Sangli |)... | Respondents |
| | (Appeal against respondent No.3 dismissed as
per Registrar (Judicial II) order dated 9 th April
2018.) | | |

Mr. Rahul R. Patil, Advocate for the Appellants.

Ms. Poonam Mital, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th NOVEMBER, 2024.

Judgment :

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

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2. It is contention of learned counsel for the appellants that the Tribunal has not given future prospects and has applied wrong multiplier, hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.1- Insurance Company that the Tribunal has considered all aspects while passing the impugned judgment and order and no interference is required in it. Hence, requested to dismiss the appeal.

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

5. To prove the income of the deceased, the claimants have examined claimant No.1-Sachin Katkar. He has stated that the deceased was his mother and she was doing household work and she was saving Rs.200/- per month. While dealing with the issue of income of the deceased, the Tribunal has considered Rs.3500/- as notional income of the deceased. In my view, it is on lower side as the deceased was taking care of all family members, she was doing all household work and at the time of the accident, she was 55 year old, hence, I am considering her monthly income as Rs.4,000/-.

5.1. The Tribunal has not awarded future prospects. As per the view of the Hon'ble Apex Court in **National Insurance Co. Ltd. vs. Pranay Sethi , 2017 ACJ 2700(SC)**, the claimants are entitled for

10% future prospects.

5.2. The Tribunal has applied multiplier of 7, it appears from record i.e. Voter's Identity Card that the deceased was 55 year old at the time of the accident, hence, the proper multiplier is 11, hence, I am considering the 11 as multiplier.

5.3. The Tribunal has not considered medical expenses. It appears from record that the claimants have spent Rs.18893/- for medical expenses, hence, I am considering these expenses as medical expenses.

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

Particulars	Rs.	Amount
Annual Income [Rs.4000/- pm. X 12(months) x 11 (multiplier)]	Rs.	528000.00
10% future prospects	Rs.	52800.00
Total	Rs.	580800.00
1/3rd deductions for personal expenses	Rs.	193600.00
Total	Rs.	387200.00
Medical Expenses	Rs.	18,893.00
Loss of consortium (Rs.48000/- x 3)	Rs.	144000.00
Loss of estate	Rs.	18000.00
Funeral Expenses	Rs.	18000.00
Total	Rs.	586093.00

The Tribunal has awarded Rs.4,21,056/-, if this amount is deducted from the amount of Rs.5,86,093/- considered by this Court, it comes to Rs.1,65,037/-. The claimants are entitled for this amount.

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

ORDER

1. The appeal is allowed.
2. The claimants are entitled for enhanced compensation of Rs.1,65,037/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
3. Respondent No.2-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.
4. The claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.
5. The claimants shall pay deficit court fees on enhanced amount, if any, as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)