

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 103 OF 2012

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| <ol style="list-style-type: none"> 1 Ababsaheb Vasant Bhosale
Age 40 years, Occ. Business 2 Akshay Abasaheb Bhosale
Age 15 years, Occ. Education 3 Sushant Abasaheb Bhosale
Age 13 years, Occ. Education 4 Kum. Gauri Abasaheb Bhosale
Age 4 years, Occ. Nil.
No.2 to 4 minor through G.A.L.
Father -No.1- Abasaheb Vasant Bhosale
All residing at Anjali Colony, Plot No.26, Shahupuri,
Gendamal, Satara, Taluka and District - Satara | | |
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... Appellants

Versus

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| <ol style="list-style-type: none"> 1 Baburao Honaji Munde
Age adult, R/o. at Anandnagar, Post-Badavni,
Taluka Gangakhed, District Parbhani 431 401.
(Owner of Tempo No. MH 22 N 621) 2 I.C.I.C.I. Lombard
Motor Insurance Zenith House,
Keshavrao Khade Marg, Mumbai – 400 034.
Policy No. 3003/52754729100/000
Insurance Period : 22.10.2007 to 21.10.2008
(Insurance Company of Tempo No. MH 22 N 621)
Notice to be served by R.P.A.D.) | | |
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... Respondents

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Mr. V. B. Rajure, Advocate for the Appellants.

Mr. Nikhil Mehta i/b. KMC Legal Venture, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th APRIL, 2024

ORAL JUDGMENT :

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

2. It is contention of learned counsel for the appellants that the Tribunal has not awarded future prospects while awarding compensation and wrong multiplier is applied. At the time of accident deceased was 31 years old, the proper multiplier is 16 but the Tribunal has applied multiplier of 15 which is erroneous. The Tribunal has awarded consortium amount on lower side, it be awarded, hence to allow the appeal.

3. It is contention of learned counsel for the respondent No.2/Insurance Company that the Tribunal has considered all the aspects while passing Judgment and Order, no interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Satara (for short “**the Tribunal**”). The Tribunal has considered notional monthly income of the deceased at Rs.3,000/- but 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 for 40% future prospects. At the time of accident deceased was 31 years old, the Tribunal has applied multiplier of 15, it should be 16. Hence, I am considering multiplier of 16. The Tribunal has awarded consortium amount on lower side. As per the view of the Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. Vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled to Rs.48,000/- as

consortium amount, Rs.18,000/- for loss of estate and Rs.18,000/- for funeral expenses. There are four claimants.

5. Considering the above calculations claimants are entitled for following compensation.

Monthly Income – Notional	Rs.	3,000.00
40% Future prospect	Rs.	750.00
1/4 th deduction Rs.937.20 per month Income (Rs.3,750-937.50)	Rs.	2,812.50
Yearly income 2812.50 X 12	Rs.	33,750.00
Multiplier 16 (33,750 X 16)	Rs.	5,40,000.00
Loss of Consortium (Rs.48,000 X 4)	Rs.	1,92,000.00
Loss of Estate	Rs.	18,000.00
Funeral Expenses	Rs.	18,000.00
Total	Rs.	7,68,000.00
Less Awarded	Rs.	4,20,000.00
Total compensation payable (Rs. 7,68,000 – Rs. 4,20,000)	Rs.	3,48,000.00

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

ORDER

- i. The appeal is allowed.
- ii. The claimants are entitled for enhanced compensation of Rs.3,48,000/- @ 7.5% interest per annum from the date of filing of claim petition till realisation. Out of this amount, Rs.2,28,000/- is consortium amount, the

claimants are entitled for interest @ 7.5% per annum on this amount from 1st November 2017 till realisation of the amount.

- iii. The respondent No.2/ Insurance Company shall deposit, enhanced amount along with accrued interest thereon within six weeks after receipt of this order.
- iv. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
- v. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
- vi. The claimants shall pay the deficit Court fees on enhanced amount as per rule.

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

(SHIVKUMAR DIGE, J.)