

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 768 OF 2019

1	Ibrahim Abdul Sattar Maniyar Age about 42 years, Occ. Hawker, R/o. Panbazar Kudal, Tal. Kudal, District : Sindhudurg.	))))	
2	Sumayya Ibrahim Maniyar Age about 14 years, Occ. Education.	))	
3	Muskan Ibrahim Maniyar Age about 12 years, Occ. Education	))	
4	Alisha Ibrahim Maniyar Age about 07 years, Occ. Education, Applicant No.1 for Applicant Nos.2 To 4 M.G.F.	)))	Appellants
	versus		
1	Kasam Harun Patankar Age : 51 years, Occ. Service in S.T. (Driver) At & Post : Nandgaon, Khalachi Muslimwadi, Tal. Kankavali, Dist : Sindhudurg	))))	
2	Maharashtra State Road Transport Corp. Division Office, Kankavali	))	
3	The Internal Insurance Fund Mumbai Through Divisional Controller, Div. Office, Kankavali, Dist : Sindhudurg	)))	Respondents

Mr. Hemant Ghadigaonkar, Advocate for the Appellants.

Mr. Yashodeep Deshmukh, Advocate for Respondent Nos. 2 and 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 9th MAY, 2024.

Oral Judgment :

1. This appeal is preferred by the appellants/claimants for enhancement of compensation.

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2. It is contention of learned counsel for the appellants/claimants that the deceased was working as cook in Anganwadi Scheme. The Tribunal has considered the notional monthly income of the deceased at Rs.3,000/- per month but has not awarded future prospects, it be awarded.

3. It is contention of learned counsel for respondent Nos.2 and 3 that the Tribunal has considered all the aspects while passing the judgment and order. Learned counsel further submitted that the Tribunal has passed well reasoned order and compensation is awarded as per II Schedule of Motor Vehicles Act, no interference is required in it.

4. I have heard both learned counsel, perused the judgment and order dated 30th April 2014 passed by Motor Accident Claims Tribunal, Sindhudurg at Oras (for short "the Sindhudurg") in M.A.C.P.No. 43 of 2013.

5. It is claimants' case that the deceased was serving as Cook in Anganwadi, Z.P.P.P.Urdu School Babachand, Pan Bazar, Kudal and she was getting Rs.3,000/- per month. The Tribunal has considered monthly income of the deceased at Rs.3000/- 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.

5.1. 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.

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

Particulars	Rs.	Amount
Annual Income of the deceased (Rs.3000/- x 12)	Rs.	36,000.00
40% Future prospects	Rs.	14,400.00
Total	Rs.	50,400.00
1/3rd deductions towards personal expenses	Rs.	16,800.00
TOTAL	Rs.	33,600.00
Rs.33,600/- x 17 (multiplier)	Rs.	5,71,200.00
Consortium (Rs.48000/- x 4 claimants)	Rs.	1,92,000.00
Loss of Estate	Rs.	18,000.00
Funeral Expenses	Rs.	18,000.00
Total Compensation.	Rs.	7,99,200.00

The Tribunal has awarded Rs.4,17,500/-, if this amount is deducted from the amount of Rs.7,99,200/- considered by this Court, it comes to Rs.3,81,700/-. 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 claimants are entitled for enhanced compensation of Rs. 3,81,700/-@ 6 % interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.2,28,000/- is consortium amount, the claimants are entitled for 6 % interest per annum on this amount from 1st November 2017 till realisation of the amount.
3. Respondent No.2-Corporation 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 deposited amount along with accrued interest thereon.
5. The claimants shall pay deficit court fees on enhanced amount as per Rules.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)