

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 341 OF 2018

Royal Sundaram Insurance Co. Ltd.,	}	
Thr. Ms.Geetha Saravanan, Manager Legal	}	
Subramaniam Building, IInd Floor, No.1	}	
Club House Road, Annasalai,	}	
Chennai-600 002.	}	...Appellant

Versus

1. Shri.Kunal Datta Kurtadkar	}	...Original
Age-31 years, Occ : Service	}	Claimant No.1
	}	
2. Shri.Sanyal Datta Kurtadkar	}	
Age-29 years, Occ : Education	}	...Original
Both R/at 691, Q Nahar Vasahat, Nachane	}	Opponent
Road, Shivajinagar, Taluka-District-	}	No.1
Ratnagiri	}	...Respondents

Mr.Rahul Mehta i/b KMC Legal Venture, for the Appellant.
Mr.Prashant B. Pawar, for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 31st JANUARY 2024

ORAL JUDGMENT :-

. The issue involved in this Appeal is amount under non-pecuniary head is awarded on higher side and deduction of

amount for personal expenses.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, the Tribunal has deducted 1/3rd amount for personal expenses, it should be 1/2. The learned counsel further submitted that, the Tribunal has awarded amount under non-pecuniary head is on higher side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, the deceased was mother of the Claimant. There are two Claimant's. The 1/3rd amount deducted for personal expenses is proper. The learned counsel further submitted that, judgment and award passed by the Tribunal is legal and valid and 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), Ratnagiri.

5. The Tribunal has deducted 1/3rd amount for personal expenses. The deceased was mother of the Claimant, 1/3rd amount deducted for personal expenses is proper. I do not

see merit in the contention that, it was not deducted properly. The Tribunal has awarded Rs.2,25,000/- under non-pecuniary head. In my view it is on higher side. As per view of Hon'ble Apex Court in case of *Magma General Insurance Co. Ltd. V/s. Nanu Ram*¹, 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. There are two Claimants it comes to Rs.1,32,000/-. If this amount deducts from Rs.2,25,000/- it comes to Rs.93,000/-. The Appellant is entitled for this amount.

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

ORDER

- (i) The Appeal is partly allowed.
- (ii) The Appellant is permitted to withdraw Rs.93,000/- along with accrued interest on it.
- (iii) The Respondents-Claimants are permitted to withdraw balance amount along with accrued interest.
- (vi) The statutory amount along with interest be transferred to the Tribunal. Parties are at liberty to withdraw it as per Rules.

1 2018 ACJ 2782 (SC)

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

(SHIVKUMAR DIGE, J.)