IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 90 OF 2010

1. Tarik Yasin Ansari
Age-62 years, Occ : Nil

2. Jainuddin Tarik Ansari
Age-17 years, Occ : Education
Since Minor Through His Natural Guardian father Tarik Yasin Ansari

3. Abbas Tarik Amsari
Age-20 years, Occ ; Nil
Appellant Nos.1 to 3 R/at Baikunthpur Kothi, Dudhari, Taluka-Tamkuhiraj, District-Kashingar, State-U.P. (Org. Applicants)

4. Alihusen Tarik Ansari
Age-29, Occ : Service

5. Jamaluddin 'Tarik Ansari'
Age-37 years, occ : Service,
Appellant Nos.4 and 5 R/at Eastern Bekari, Javahar Ganj, Mithanagar, S.No.52, Kondhwa Khurd, Pune-411 048. **....Appellants**

Versus

1. Shri.Prashant Kanakmal Raka
Age-Adult, Occ : Business

2. United India Insurance Co. Ltd. (Org. Opponents)
Office at D.O. 6, Laxmi Road, Pune. **....Respondents**

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Mr.Yogesh G. Thorat a/w Mr.Ashok B. Tajane, Mr.H.M. Khupsare, for the Appellants.
Ms.Poonam Mital, for Respondent No.2.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 26th 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-Claimants that, the deceased was earning Rs.100/- to Rs.150/- per day. But Tribunal has considered income of deceased at Rs.36,000/- per annum, which is on lower side. The learned counsel further submitted that, the Tribunal has applied multiplier of 9, which is wrong. The learned counsel further submitted that, the Tribunal has not awarded future prospects, it be awarded. The Consortium amount is awarded on lower side, it be awarded. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that, while passing the judgment and order the Tribunal has considered all the aspects on that basis compensation is

awarded. 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), Pune.

5. To prove the income of the deceased the Claimant's have examined Claimant No.5. He has stated that, the deceased was working in Sonal Bakery and was earning Rs.100/- to Rs.150/- per day. Considering the evidence on record, the Tribunal has considered yearly income of deceased at Rs.36,000/- per annum. In my view, it should be Rs.40,000/- per anuum. At the time of the accident, the deceased was 21 years old. The Tribunal has applied multiplier of 9, it should be 18. 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 Claimant's are entitled for future prospects.

6. 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.40,000/- as consortium amount. Rs.16,500/- for funeral expenses

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

and Rs.16,500/- for loss of estate. Considering this calculation the Claimants are entitled for following compensation.

Particulars	Amount
Yearly Income-Notional	Rs.40,000.00
40% Future Prospects	(+) Rs.16,000.00
Total Income	Rs.56,000.00
1/3rd Deducting for living Expenses Rs.56,000 – Rs.18,666	**Rs.37,334.00**
Multiplier (18)	Rs.6,72,012.00
Loss of Consortium Rs.40,000 X 5	Rs.2,00,000.00
Funeral Expenses	Rs.16,500.00
Loss of Estate	Rs.16,500.00
Total Compensation (Rs.6,72,012 + Rs.2,33,000)	**Rs.9,05,012.00**
Awarded Compensation	Rs.1,66,500.00
Enhanced Compensation	**Rs.7,38,512.00**

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimant's are entitled for enhanced amount Rs.7,38,512 @ 7.5% per annum from date of the filing of the Claim Petition till realization of the amount. Out of this amount Rs.2,30,000/- is consortium amount, the

Claimant's are entitled @ 7.5% interest on it from 1st November 2017, till realization of the amount.

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

(iv) The Claimant's are permitted to withdraw the deposited amount alongwith interest.

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

(SHIVKUMAR DIGE, J.)