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

FIRST APPEAL NO. 269 OF 2024

SHANTANU SHANKARSA DHUDUM Digitally signed by SHANTANU SHANKARSA DHUDUM Date: 2024.04.26 15:06:26 +0530

The New India Insurance Co. Ltd.)
Regional Office Sharda Centre,)
2nd Floor, Near Nal Stop,)
Off Karve Road, Pune – 411 004)
Also at 41B, 4th Floor, Maker Tower – E,)
Near World Trade Centre,)
Cuffe Parade, Mumbai – 400 005)….Appellant
(Orig. Opp. No.2)

Versus

1. Ranjana Tukaram Konapure)
   Age: 33 years, Occ: Housewife)
2. Master Gopal Tukaram Konapure)
   Age: 13 years, Occ: student)
3. Nikita Tukaram Konapure)
   Age: 8 years, Occ: student)
   (Respondent No.2 & 3 minors)
   through next friend Mother)
   - Respondent No.1))
4. Indarbai Digambar Konapure)
   Aged: 67 years, Occ: Nil)
   All r/at S. No.5/1A/1, next to)
   Delhi Public School)

Mohammadwadi, Pune – 411 028.)
5. Chandrashkhar Ramkrishna Chitale)
Age: adult, Occ: business)
R/at Nathnagar, Pathardi,)
District – Ahmednagar,)
Pin- 414 102)….Respondents

(Present Respondent Nos.1 to 4 being original Applicants & present Respondent No.5 being original Opp. Party No.1 Resp.)

Mr. Rajesh Kanojia i/b Res Juris, Advocate for the Appellant.
Mr. Angad Singh Gill a/w Mr. Venkatesh Shewale, Advocate for the Respondent Nos.1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th APRIL, 2024.

Oral Judgment :

1. The issue involved in this appeal is income of the deceased is considered on higher side.

2. It is contention of learned counsel for the Appellant/Insurance Company that the Tribunal has considered income of the deceased at Rs.20,000/- per month, without any evidence on record. Learned counsel further submitted that it is the Claimants' case

that the deceased was taking private contracts of painting and was earning Rs.25,000/- per month but, no evidence was produced on record in support of the case of the Claimants. The Tribunal has awarded compensation on the basis of income of Rs.20,000/- per month, which is on higher side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondents/Claimants that at the time of accident deceased was 36 years old. He was taking private contracts of painting and was earning Rs.25,000/- per month. The income of the deceased is proved before the Tribunal and, on that basis, the Tribunal has considered monthly income of the deceased at Rs.20,000/- per month, which is proper.

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

5. To prove the income of the deceased, the Claimants have examined Claimant No.1-Ranjana Konapure. She has stated that deceased was taking private contracts of painting and was earning Rs.25,000/- per month. He had purchased car before six month of accident from his saving money. In cross-examination, she has admitted that she has not produced any documents to show that her husband was doing painting work.

6. While dealing with the issue of income of the deceased, the Tribunal has observed that the deceased was maintaining his entire family as well as he was financially sound enough to purchase a car. Considering the evidence on record, the Tribunal has considered monthly income of the deceased at Rs.20,000/- per month. In my view, it is on little higher side. The deceased was maintaining family of 4 persons. There is no reason to disbelieve the evidence of Claimant No.1 that her husband was taking painting contracts. Considering the evidence on record, I am considering Rs.18,000/- per month as income of the deceased. As per the income of the deceased at Rs.18,000/- per month excess amount comes to Rs.3,72,000/-.

Monthly income	Rs.18,000/-
40% Future Prospects (Value)	Rs.7,200/-
Total Income	Rs.25,200/-
Personal deduction	Rs.6,300/-
Total	Rs.18,900/-
Annual Income X 12 Months	Rs.2,26,800/-
Multiplier 15	Rs.34,02,000/-
Loss of Estate	Rs.18,000/-
Funeral Expenses	Rs.18,000/-
Consortium	Rs.1,60,000/-
Total compensation	Rs.35,98,000/-
Less awarded by the Tribunal	Rs.39,70,000/-
Excess Amount	**Rs.3,72,000/-**

5. The Appellant/Insurance Company is entitled for the excess amount of Rs.3,72,000/-.

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

ORDER

i. Appeal is allowed.

ii. The Appellant is permitted to withdraw **Rs.3,72,000/-** along with proportionate interest out of deposited amount.

iii. The Claimants are permitted to withdraw the balance amount along with proportionate interest.

iv. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.

7. All pending applications, if any, stands disposed of.

(SHIVKUMAR DIGE, J.)