

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

FIRST APPEAL NO. 1973 OF 2010

- | | | |
|-----------------------------------|------------------|--|
| 1. Harsha Prashant Jagtap |) | |
| Age: 29 years, Occ: Nil |) | |
| 2. Yashashree Prashant Jagtap |) | |
| Age: 5 years, Occ: Nil |) | |
| 3. Shivaji Shankarrao Jagtap |) | |
| Age: 58 years, Occ: Agriculturist |) | |
| 4. Alka Shivaji Jagtap |) | |
| Age: 53 years, Occ: Nil |) | |
| All R/at Bhikobanagar, Pandare, |) | |
| Tal: Baramati, Dist: Pune |)....Appellants | |
| | Orig. Opponents. | |

Versus

- | | | |
|-------------------------------------|-----------------|--|
| 1. Vijay Ganu More |) | |
| Age: adult, Occ: Business, |) | |
| R/at. 8/5, Mangawar Peth, |) | |
| Near Doctor, Todkar Hospital, Pune |) | |
| 2. The New India Assurance Co. Ltd. |) | |
| Bhigwan Chowk, Baramati, |) | |
| Dist: Pune |)...Respondents | |
| | Orig. Opponents | |

Mr. Rahul S. Kate, Advocate for the Appellants.
 Mr. S. M. Dange, Advocate for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 9th FEBRUARY, 2024.

Oral Judgment. :

1. By this appeal, Appellants/Claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the Appellants that deceased was working as a lecturer and he was getting salary of Rs.16,800 per month but, the Tribunal has considered monthly income of deceased at Rs.20,000/- including the future prospects, which is on lower side. Learned counsel further submitted that Tribunal has awarded consortium amount on lower side. Learned counsel further submitted that the Tribunal has applied multiplier of 14, at the time of death deceased was 32 years old, so proper multiplier is 16. Learned counsel further submitted that the Tribunal has deducted 1/3 amount for personal expenses, it should be 1/4. Hence, requested to allow the Appeal.

3. Learned counsel for the Respondent/Insurance Company

submitted that after deducting of income tax, Tribunal has considered monthly income of the deceased, which is proper. The Tribunal has considered all the aspects while passing the judgment and order. No interference is required in it. Hence, requested to dismiss the Appeal.

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 deceased, the Claimants have examined Claimant No.1 Harsha Jagtap wife of deceased. She has stated that deceased was working as a lecturer with Engineering College and he was getting Rs.16,800/- per month salary. She further submitted that deceased had agricultural land property, from it, he was getting Rs.5,000/- per month. Considering evidence on record, the Tribunal has considered income of deceased at Rs.20,000/- per month with future prospects. The Tribunal has observed that deceased was paying income tax at Rs.4551/- per month on that basis the tribunal has deducted this amount from monthly income, in my view, it is erroneous. The deceased was getting salary at Rs.16,800/-

per month and on that amount Rs.4551/- per month income tax is erroneous. It was typographical mistake and it should be yearly income tax.

6. Considering evidence on record, after deducting income tax and professional tax, I am considering monthly income of deceased at Rs.16,450/- per month. The Tribunal has applied multiplier of 14, at the time of accident, deceased was 32 years old, the proper multiplier is 16. Hence, I am considering the multiplier is 16. The Tribunal has awarded consortium amount of Rs. 10,000/-. As per 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 entitle for Rs.48,000 for consortium amount and Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate.

7. Considering the above calculations, the claimants are entitled for following compensation.

Monthly Income	Rs.16,450/-
Annual Income (Rs.16,450/- X 12)	Rs.1,97,400/-
Less Four Dependence /14	Rs.49,350/-
Total income	Rs.1,48,050/-

Multiplier 16 (Rs.1,48,500 X 16)	Rs.23,68,800/-
Funeral Expenses	Rs.18,000/-
Loss of estate	Rs.18,000/-
Consortium amount	Rs.1,92,000/-
Future loss of income	Rs.11,84,000/-
Total Compensation	Rs.37,81,200/-
Less awarded by the tribunal	Rs.16,90,000/-
Enhanced amount	Rs.20,91,200/-

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

ORDER

- i. Appeal is allowed.
- ii. The Claimants are entitled for enhanced amount of Rs.20,91,200/- @ 7.5% interest per annum from the date of filing claim petition, till realisation of the amount. Out of this amount, consortium amount is Rs.2,28,000/-, the Claimants are entitled @ 7.5% interest on this amount from 1st November, 2017 till realisation of the amount.
- iii. The Respondent No.2/Insurance Company shall deposit the enhanced amount along with accrued interest thereon.
- iv. The Claimants are permitted to withdraw the deposited

amount along with accrued interest thereon.

9. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)