

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

FIRST APPEAL NO.853 of 2018

THE NEW INDIA ASSURANCE CO. LTD.,)
Divisional Office, Station Road, Near Parvati)
Multiplex, Rajaram Road, Kolhapur – 416 601)...**APPELLANT**

Vs.

1. **SMT. VARSHA SANDEEP SABALE**)
Age 30 years, Occupation Nil)
)
 2. **MASTER UDAY SANDEEP SABALE**)
Age 6 years, Occupation Nil)
)
 3. **KUM. MUKTA SANDEEP SABALE**)
Age 2 years, Occupation Nil)
)
 4. **SHRI. MARUTI BHIMAJI SABALE**)
Age 62 years, Occupation Nil)
)
 5. **SOU. SANJANA MARUTI SABALE**)
Age 57 years, Occupation Nil)
)
 6. **KUM. SUNANDA MARUTI SABALE**)
Age 27 years, Occupation Education)
)
- All R/o. At Post Dimbe, Taluka Ambegaon,)
District Pune.)
)
7. **SHRI. TANAJI B. GAIKWAD**)
Age Major, Occupation Business)
306, A HSG Society, Malwadi,)
A/P. Pulachi Shirol, Taluka Hatkananagale)
District Kolhapur)

8. **SHRI ARVIND VASANT BUJARE**)
 Age Major, Occupation Driver)
 R/o. Kasaarwada, Taluka Radhanagari)
 District Kolhapur)...**RESPONDENTS**

Mr.Ketan Joshi, Advocate for the Appellant.

Mr.Yuvraj Narvankar, Advocate for the Respondents No.1 and 4 to 6.

CORAM : ABHAY AHUJA, J.

RESERVED ON : 25th JULY, 2023
PRONOUNCED ON : 2nd JANUARY, 2024

JUDGMENT :

1. This Appeal has been filed under section 173 of the Motor Vehicles Act, 1988 (the “M.V. Act”) challenging the judgment and award dated 4th September, 2015 passed by the Motor Accident Claims Tribunal, Kolhapur (the “Tribunal”) in Motor Accident Claim Petition No.644 of 2013 partly allowing the Claim Petition of the Respondents No. 1 to 6 and jointly and severally directing the Appellant and the Respondent No.7 to deposit an amount of Rs.59,69,913/- inclusive of amount of compensation under 'no-fault' liability along with interest thereon at the rate of 9% per annum from the date of filing of the petition till realization. The Tribunal further held that out of the total compensation, (i) Rs.15,00,000/- to be paid to

Respondent No.1. Out of it, 50% amount to be kept in fixed deposit scheme in her name in any nationalized bank of her choice for a period of five years, (ii) Rs.15,00,000/- to be paid to Respondent No.2. Out of it 75% amount to be kept in fixed deposit scheme in his name in any nationalized bank till he attains majority, (iii) Rs.15,00,000/- to be paid to Respondent No.3. Out of it, 75% amount to be kept in fixed deposit scheme in her name in any nationalized bank till she attains majority, (iv) Rs.5,00,000/- each to be paid to Respondents No. 4 and 5, (v) Rs.4,00,000/- to be paid to Respondent No.6 and (vi) the balance amount and interest to be paid to all Respondents No.1 to 6 equally.

2. By an order dated 9th July, 2018 in Civil Application No. 770 of 2016 in the said appeal, a delay of 53 days caused in filing the appeal was condoned. Vide order of this Court dated 1st March, 2019, the appeal was admitted.

3. The brief facts in this matter are as follows. That on 26th July, 2013 at about 2:30 a.m. to 3:00 a.m., Sandeep Maruti Sabale was proceeding from Shirol to Kolhapur on his Hero Honda motorcycle bearing registration No. MH-09/BD-7133. When he reached near the spot of the

accident, one Tavera car bearing registration No. MH-10/AG-0885 owned by Respondent No.7, duly insured with the Appellant and driven by Respondent No.8, came in high speed, rashly and negligently, and gave a dash to the motorcycle of Sandeep Maruti Sabale, thereby he fell down and sustained multiple injuries and died before treatment. Since the accident took place due to rash and negligent driving of Respondent No.8, he was prosecuted by MIDC Shirol Police vide C.R. No.85/2013 and ultimately after investigation, he has been chargesheeted.

4. The Respondents No. 1 to 6 claimed to be the legal heirs and dependents of the deceased Sandeep Maruti Sabale who was 33 years of age at the time of the accident. The deceased was serving as Sub-Inspector in State Excise Department of the State of Maharashtra and was earning a salary of Rs.25,000/- per month. The Respondents No. 1 to 6 have claimed that due to his demise they have sustained pecuniary as well as non-pecuniary loss and claimed a compensation of Rs.76,72,500/- from the Appellant and Respondents No. 7 and 8 under various heads.

5. The Appellant and the Respondent No.8, driver, filed their written statements denying all the allegations. They denied the involvement of the

offending Tavera vehicle in the accident. Further they contended that assuming that the offending Tavera vehicle was involved in the said accident, the accident did not take place due to the rash and negligent driving of Respondent No.8. They further denied the age, service, salary and future prospects of the deceased and submitted that the claim is false, excessive and sought for it to be dismissed. The Respondent No.7 being the owner of the offending Tavera vehicle, despite opportunity did not file his Written Statement.

6. The Tribunal examined the Affidavit of Respondent No.1, the examination of Witness No.2, Sanjay Jaysing Patil, Dy. Superintendent State Excise, Kolhapur who proved service book and relevant documents and salary certificate of deceased, certified copies of police papers such as wardi report, spot panchnama, complaint, inquest panchnama, post mortem report, death certificate, chargesheet against Respondent No.8 driver, First Information Report (FIR) and certified statements of witnesses examined by the Investigating Officer during the course of investigation.

7. The Tribunal held that the claim of the Respondent No.1 that the accident was caused due to the rash and negligent driving of the offending

Tavera vehicle is duly corroborated through the contents of complaint, chargesheet and statements of eye witnesses examined by the Investigating Officer. After due investigation, the police station at MIDC Shirolī submitted a chargesheet against the Respondent No.8 driver for offence punishable under Sections 279, 304-A of the Indian Penal Code, 1860 (IPC) and for offences punishable under Sections 184 and 134(1)(b) of the Motor Vehicles Act. The Tribunal therefore held that the prosecution of Respondent No.8 driver for the said accident was caused only because of the rash and negligent driving of Respondent No.8. The Tribunal relied on case law wherein Courts have held that when driver of offending vehicle is facing criminal trial *prima facie* it can be presumed that, he was responsible for the accident. The Tribunal recorded that no evidence was adduced on behalf of the Appellant and Respondents No. 7 and 8. The Tribunal held that it was incumbent on the part of the Respondents No. 7 and 8 to prove as to where the offending Tavera vehicle was at the relevant time of the accident. The Tribunal held that there was no contrary evidence to show what the Respondents No. 7 and 8 have done after knowing that the offending Tavera vehicle and Respondent No.8 have allegedly been falsely involved in the case of the accident. Therefore the Tribunal held that the accident in question took place due to rash and

negligent driving of the offending Tavera vehicle by Respondent No.8 driver, which was owned by Respondent No.7 and duly insured with the Appellant. The Tribunal further held that undisputedly the insurance policy of the offending Tavera vehicle was in force on the date of the accident. The Tribunal held that the Respondents No. 1 to 6 were entitled to get compensation under Section 166 of the Motor Vehicles Act.

8. On the issue of quantum of compensation, the Tribunal determined the same keeping in mind the guidelines laid down by the Hon'ble Supreme Court in the decisions in the cases of *State of Haryana and another v. Jasbir Kaur and others*¹ and *Rajesh and other v. Rajbeer Singh and other*² and *Sanobanu Nazirbhai Mirza v. Ahmedabad Municipal Transport Service*³.

9. The Tribunal held that undisputedly, the date of birth of the deceased Sandeep was 12/12/1980 and therefore his age on the date of the accident was 32 years and in view of the observations in the case of *Sarla Verma v. Delhi Transport Corporation and others*⁴ multiplier of 17 would be applicable. The Tribunal held that the deceased was having

1 III(2003)ACC 90 (SC)

2 2013 ACJ 1403

3 2013 ACJ 2733

4 2009 ACJ 1298 (Supreme Court)

remaining service of 25 years and was in permanent government employment and therefore as per the ratio laid down in the case of *Vimal Kumar and others v. Kishore Dan and others*⁵, in the Tribunal's opinion 50% of amount of income of the deceased is to be added towards future prospects in order to assess his monthly income. After adding 50% to his monthly income and deducting income tax from the deceased's annual net income, the Tribunal calculated annual loss of income to be Rs.4,27,052/-. Considering the strength of dependency of six members, the Tribunal held that 1/4th amount is required to be deducted from the deceased's annual income towards personal expenditure of deceased and calculated actual loss of dependency to come to Rs.3,20,289/-. The Tribunal then applied the multiplier of 17 to said actual loss of dependency and held that the total loss of income and dependency comes to Rs.54,44,913/-. The Tribunal held that in addition in view of the ratio laid down in the case of *Rajesh and other v. Rajbeer Singh and other(supra)*, the Respondents No.1 to 6 are entitled to get an amount of Rs.1,00,000/- towards loss of consortium to Respondent No.2, Rs.2,00,000/- towards love and affection, Rs.25,000/- towards funeral expenses, Rs.1,00,000/- towards loss to estate, Rs.1,00,000/- towards loss of care and guidance for minor

5 2013 (3) T.A.C. 6(Supreme Court)

children. The Tribunal therefore held that the Respondents No.1 to 6 were entitled to get compensation of Rs.56,69,913/- inclusive of amount paid under no fault liability, if any, along with interest @ 9% from the date of filing of the Petition till the date of realization to be paid in the manner mentioned in paragraph 1 hereinabove by the Appellant and the Respondent No.7 owner, jointly and severally.

10. The Respondents No.1 to 6 accepted the compensation awarded by the Tribunal and did not challenge the award.

11. Aggrieved and dissatisfied by the Impugned Judgment and Award partly allowing the Claim Petition of the Respondents No. 1 to 6 and awarding a sum of Rs.56,69,913/- including amount of 'no-fault' liability, if any, loss of consortium, loss of love and affection, funeral expenses, loss to estate, loss of care and guidance for minor children from the Appellant and Respondent No.7 who were held to be jointly and severally liable to pay the compensation amount with interest at the rate of 9% from the date of the petition till realization of the entire amount, the Appellant has preferred this Appeal as mentioned above.

12. The Appellant has challenged the Impugned Judgment and Award essentially on two grounds (A) the alleged involvement of the offending Tavera vehicle bearing registration No. MH-10-AG-0885 in the accident and (B) on the quantum of compensation.

13. On the first issue of alleged involvement of the offending Tavera vehicle, the Appellant submitted that the Tribunal failed to appreciate that the Wardi report lodged on the date of the accident was by a person who was not a witness to the accident and the FIR was lodged on 13th August, 2013 which was 15 days after the accident which goes to show that there is a possibility of the offending Tavera vehicle being falsely implicated in the accident. That the Tribunal failed to appreciate that the Appellant as well as the Respondent No.8 driver categorically denied the involvement of the offending Tavera vehicle in their Written Statements and therefore the Tribunal ought to have framed an issue and opportunity of leading evidence should have been given to the Appellant to rebut the allegation and contention regarding the alleged involvement of the offending Tavera vehicle. That the Tribunal erred in solely relying on the statement of the Respondent No.1 and the police documentary record to come to a conclusion on the involvement of the offending Tavera vehicle. That the

Tribunal ought to have appreciated that it was the duty of the Respondents No.1 to 6 to examine the eye witnesses to the accident named in the charge-sheet and without any cross examination on this point the Tribunal has erred in holding that the offending Tavera vehicle was involved in the accident.

14. Mr. Ketan Joshi, learned Advocate for the Appellant, submitted that the Tribunal ought to have appreciated that the Hon'ble Supreme Court and High Courts in several judgments have reiterated the basic principle that the burden is on the claimant to prove the accident involvement and negligence by leading cogent evidence and that in the present matter the claimants have failed to prove the involvement of the vehicle by leading cogent evidence and therefore the burden never shifted on to the Appellant. Mr. Joshi further submitted that the Respondents No.1 to 6 have relied only on the police papers and they have not examined the Investigating Officer nor the five eye witnesses whose statements were recorded before the police to prove the involvement of the vehicle. Mr. Joshi relied upon the judgments of this Court in the cases of *Kalpana Kothari v. Santosh Jangam*⁶ and *New India Assurance v. Laxman s/o Dadarao Karpe and others*⁷ in support of his contentions.

6 2020(2) Mh.L.J. 561.

7 First Appeal No. 2973 of 2013

15. On the issue of quantum of compensation, it was contended on behalf of the Appellant that the Tribunal ought to have considered that the Respondents No.4 and 5 being father and mother of the deceased respectively were doing agricultural work and Respondent No.6 being the sister of the deceased was married a year back and the Tribunal wrongly calculated the deduction towards dependency to be $3/4^{\text{th}}$ and it should have been only $2/3^{\text{rd}}$ keeping in mind the widow and the two minor children of the deceased. It was further contended that the Tribunal ought to have appreciated that the age of the deceased was 33 years and therefore the Tribunal ought to have considered the multiplier of 16 instead of 17 which was wrongly applied by the Tribunal. Learned counsel for the Appellant relied on the decisions of the Hon'ble Supreme Court in the cases of *Sarla Verma v. Delhi Transport Corporation (supra)*, ***Reshma Kumari v. Madan Mohan***⁸ and ***National Insurance v. Pranay Sethi***⁹ in support of his contention. That the general damages of Rs.5,25,000/- was on the higher side. That the Tribunal failed to consider the decision of this Court in the case of ***New India Assurance v. Alpa Shah***¹⁰ where it was held that future prospects cannot be granted as a matter of right and that no cogent evidence was adduced to avail the benefit of future prospects and

8 2013(9) SCC 65

9 2017 (16) SCC 680.

10 2014(2) Mh.L.J.17

therefore the Tribunal erred in granting future prospects to Respondents No.1 to 6.

16. Mr. Joshi concluded by submitting that as far as the compensation granted under the other heads/non-pecuniary damages, the same should be granted in accordance with the judgments of the Hon'ble Supreme Court in the cases of *National Insurance v. Pranay Sethi (supra)*, ***Magma General Insurance v. Nanu Ram***¹¹ and ***New India Assurance v. Somwati***¹².

17. On the other hand Mr. Yuvraj Narvankar, learned counsel for the Respondents No. 1 to 4 and 6, submitted that substantial documentary evidence in the form of Wardi report, Spot Panchnama, Inquest Panchnama, post-mortem report, chargesheet, FIR, statements of witnesses, etc. was produced to establish the involvement of the vehicle. Mr. Narvankar submitted that on the contrary and as recorded by the Tribunal in paragraph 8 of its order, no evidence was adduced by the Appellant and Respondent No.8 to prove the alleged non-involvement of the vehicle. Mr. Narvankar submits that it is a consistent judicial view that the initial burden on the claimants to prove the involvement of the vehicle

¹¹ 2018(18) SCC 130

¹² 2020(9) SCC 644

is discharged when a reference is made to the police documents including the FIR and the charge-sheet and the onus of proof then shifts on the insurance company or the owner of the vehicle to rebut the presumption drawn by virtue of the police papers. Mr. Narvankar submitted that in fact in the Written Statement filed on behalf of the Respondent No.8 driver, the involvement of the vehicle was admitted. He further submitted that the proceedings under the provisions of the Motor Vehicles Act are summary in nature and the burden of proof required in these cases cannot be equated with the burden of proof required in a criminal trial.

18. On the issue of quantum of compensation, Mr. Narvankar submitted that the deceased was working as a Sub-Inspector in the State Excise Department and was 32 years of age at the time of the accident which fact has been deposed to by his employer whose evidence was unshaken in the cross examination. Mr. Narvankar submits that the multiplier of 16 would be applicable to the present case in the light of the decision in the case of *Sarla Verma v. Delhi Transport Corporation and others (supra)*. Mr. Narvankar also agrees that the compensation granted under the other heads/non-pecuniary will have to be in accordance with the decisions in the cases of *National Insurance v. Pranay Sethi (supra)*, *Magma General*

Insurance v. Nanu Ram (supra) and *New India Assurance v. Somwati (supra)*.

19. I have heard Mr. Joshi, learned counsel for the Appellant and Mr. Narvankar, learned counsel for the Respondents No. 1 to 4 and 6 and with their able assistance, I have perused the papers and proceedings in the matter and considered the rival submissions.

20. On the first issue being the alleged involvement of the offending Tavera vehicle bearing registration No. MH-10-AG-0885 in the accident, the Tribunal has clearly held that the claim of the Respondent No.1 that the accident was caused due to the rash and negligent driving of the offending Tavera vehicle is duly corroborated through the contents of complaint, chargesheet and statements of eye witnesses examined by the Investigating Officer. The Tribunal also held that there was no contrary evidence to show what the Respondents No. 7 and 8 have done after knowing that the offending Tavera vehicle and Respondent No.8 have allegedly been falsely involved in the case of the accident.

21. In this regard, this Court has examined the decision of the Tribunal, the Written Statements of the Appellant and the Respondent No. 8 driver,

cause of death certificate of deceased and the police papers being the FIR, Jawab, Panchnama, Inquest Panchnama, Accident Report, Arrest form, Tapas tipan and Chargesheet in the matter. From the police papers it is clear that the death of Sandeep Maruti Sabale was caused by the offending Tavera vehicle bearing registration No. MH-10/AG-0885 giving a dash to his motorcycle bearing registration No.MH-09-BD-7133 from behind and then one of the wheels of the offending Tavera vehicle passing over the head of the deceased Sandeep Maruti Sabale.

22. The Appellant and the Respondent No.8 have clearly been unable to produce any evidence to the contrary.

23. The Appellant's claim that the Wardi report lodged on the date of the accident was by a person who was not a witness to the accident and the FIR was lodged 15 days after the accident which goes to show that there is a possibility of the offending Tavera vehicle being falsely implicated in the accident is not supported by any evidence, particularly when the charge-sheet is filed against Respondent No.8 driver of the offending Tavera vehicle after the investigation of the involvement of the offending Tavera vehicle in the accident. In fact, in Paragraph 12 of the

Written Statement of Respondent No.8 driver, he has alleged that the accident was caused due to the rash and negligent driving of the deceased and that it was the deceased who dashed the offending Tavera vehicle, thereby admitting the involvement of the offending Tavera vehicle in the accident. Further, it is clear from Paragraph 8 of the Impugned Judgment that although the Appellant and Respondent No.8 came up with the defence of non-involvement of the offending vehicle, they did not step into the witness box to deny the involvement of the offending Tavera vehicle in the accident nor did they prove that the offending Tavera vehicle was elsewhere at the time of the accident. Therefore the Appellant's claim that the denial in the Written Statements of the Appellant and the Respondent No.8 ought to have been considered and an opportunity of leading evidence ought to have been given to them is not borne out by their conduct before the Tribunal.

24. It would be relevant here to quote the decision of the Hon'ble Supreme Court in the case of *N.K.V Bros (P) Ltd. v. M. Karumai Ammal and others*¹³ wherein it has been held that Accident Claim Tribunals must take special care to see that innocent victims do not suffer and drivers and

¹³ 1980 A.C.J. 435

owners do not escape liability merely because of some doubt here or some obscurity there. Save in plain cases, culpability must be inferred from the circumstances where it is fairly reasonable. The Court should not succumb to niceties, technicalities and mystic maybes.

25. It would also be important to refer to the decision of the Hon'ble Supreme Court in the case of ***Rajwati alias Rajjo and Others v. United India Insurance Company Ltd. and Others***¹⁴ the relevant paragraphs of which are quoted as under:

“19. Similarly, in the case of Kusum Lata v. Satbir¹⁵, this Court observed that it is well known that in a case relating to motor accident claims, the claimants are not required to prove the case as it is required to be done in a criminal trial. The Court must keep this distinction in mind.

20. It is well settled that Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the Tribunal's role would be to award just and fair compensation. As held by this Court in Sunita v. Rajasthan State Transport Corporation¹⁶ and Kusum Lata (supra), strict rules of evidence as applicable in a criminal trial, are not applicable in motor accident compensation cases, i.e., to say, “the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases”.

¹⁴ 2022 SCC OnLine SC 1699

¹⁵(2011) 3 SCC 646

¹⁶ (2020) 13 SCC 486.

26. In the light of the above, I am of the view that the Tribunal is correct in holding that the accident was caused due to the rash and negligent driving of the offending Tavera vehicle by Respondent No.8 which was owned by the Respondent No.7 and duly insured with the Appellant which insurance policy was in force at the time of the accident and that the Respondents No.1 to 6 were entitled to get compensation under Section 166 of the Motor Vehicles Act.

27. On the issue of quantum of compensation, the Tribunal held that since the age of the deceased on the date of the accident was 32 years and in view of the observations in the case of *Sarla Verma v. Delhi Transport Corporation and others (supra)* multiplier of 17 would be applicable. The learned counsel for the Appellant has contended that the Tribunal ought to have considered the multiplier of 16 instead of 17 which was wrongly applied by the Tribunal. On this issue, the date of birth of the deceased was 12th December, 1980 and the accident occurred on 26th July, 2013. Therefore, on the date of the accident his age was 32 years and 7 months. In the light of the decisions in the *Sarla Verma v. Delhi Transport Corporation and others (supra)* and *National Insurance v. Pranay Sethi (supra)*, he would fall within the age group of 31 to 35 years and

therefore multiplier 16 will be applicable and not multiplier 17 as held by the Tribunal.

28. On the issue of deduction towards personal and living expenses, in the light of *Sarla Verma v. Delhi Transport Corporation and others(supra)*, the Tribunal has held that one-fourth has to be deducted as the number of dependent family members was six. Although the Appellant has submitted that the Tribunal wrongly calculated the dependency to be $3/4^{\text{th}}$ and the dependency ought to be calculated at $2/3^{\text{rd}}$ considering the widow and two minor children only, the Appellant has not produced any corroborative evidence regarding the non-dependency of the Respondents No. 4 to 6. Therefore I do not consider it necessary to deal with this issue.

29. The basic salary of the deceased at the time of his death was Rs.24,697/- per month and including 50% future prospects the same comes to Rs.37,046/-. After deduction of $1/4^{\text{th}}$ expenses for personal nature and income tax payable of Rs.17,500/- and after applying multiplier of 16 the total amount payable under loss of income is calculated to be Rs.51,24,624/-. On the Tribunal granting Rs.1,00,000/- towards loss of consortium to Respondent No.2, Rs.2,00,000/- towards

love and affection, Rs.25,000/- towards funeral expenses, Rs.1,00,000/- towards loss to estate, Rs.1,00,000/- towards loss of care and guidance for minor children on the basis of the decision in the case of *Rajesh and others v. Rajbir Singh and others (supra)*, it is settled law that the loss of estate, loss of consortium and funeral expenses has to be calculated in accordance with the principles laid down in the decision in the case of *National Insurance v. Pranay Sethi (supra)* where the Court has in paragraphs 52 and 59.2 held that loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively and the same should be enhanced at the rate of 10% every three years. Accordingly the loss of estate has to be calculated to be Rs.16,500/- and not Rs.1,00,000/- as calculated by the Tribunal. The loss of consortium has to be calculated at the rate of Rs.44,000/- for each of the Respondents No.1 to 6 and not at Rs.1,00,000/- as calculated by the Tribunal. Funeral expenses have to be calculated at Rs.16,500/- and not Rs.25,000/- as calculated by the Tribunal.

30. In view of the above discussion and as per the calculation jointly submitted by Mr. Joshi, learned counsel for the Appellant and Mr. Narvankar, learned counsel for Respondents No. 1 to 4 and 6, this Court is

of the view that the Appellants are entitled to total compensation of Rs.54,21,624/- as per the following calculation:

Sr. No.	Particulars	Amount
1.	Basic Income	Rs.24,697/-
2.	50% future prospects	Rs.12,349/-
3.	Annual (1+2 x12)	Rs.4,44,552/-
4.	Less Income Tax payable	Rs.17,500/-
5.	Less 1/4 th deduction of expenses of personal nature	Rs.1.06,763/-
6.	Total 3-4-5	Rs.3,20,289/-
7.	Compensation on dependency (multiplier of 16)	Rs.3,20,289 X 16 = Rs.51,24,624/-
8.	Add loss of estate	Rs.16,500/-
9.	Add funeral expenses	Rs.16,500/-
10.	Loss of consortium (Rs.44,000/- x 6 claimants)	Rs.2,64,000/-
11.	TOTAL COMPENSATION (7+8+9+10)	Rs.54,21,624/-

31. Accordingly, the Respondents No.1 to 6 are entitled to a total compensation of Rs.54,21,624/- inclusive of amount of compensation under 'no-fault' liability along with interest thereon at the rate of 9% per annum to be paid by the Appellant and the Respondent No.7 jointly and

severally from the date of filing of the petition till realization, to be distributed *inter se* amongst the Respondents No.1 to 6 in the manner and proportion as mentioned in the judgment and award dated 4th September, 2015 of the Motor Accident Claims Tribunal, Kolhapur less the amount, if any, already withdrawn.

32. The judgment and award dated 4th September, 2015 of the Motor Accident Claims Tribunal, Kolhapur be modified to the above extent.

33. The appeal of the Appellant Insurance Company accordingly stands dismissed. No order as to costs.

(ABHAY AHUJA, J.)

ARTI
VILAS
KHATATE

Digitally signed
by ARTI VILAS
KHATATE
Date: 2024.01.02
19:02:08 +0530