

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 85 OF 2017**

1. Mukund Namdo Atre	}	
Age-54, Occupation-Service	}	
 2. Mr.Abhijit Mukund Atre	 }	 (Org.
Age-35 years, Occ : Student	}	Applicants)
Both R/at "Bhagyashri", Flat No.104,	}	
S.No.37, Kundan Park, Hingane,	}	...Appellants
Pune-411 052.		

Versus

1. M/s.J.R. Enterprises	}	
Shree Apartments No.325, Kanari block, C-	}	
A, 1 st Floor, Bhivandi, District-Thane.	}	
 2. National Insurance Co. Ltd.	 }	
Regional Office,	}	(Org.Opponents)
"Asmani Plaza", 2 nd Floor, Pune-411 004.	}	...Respondents

Mr.Rushikesh S. Kale, for the Appellant.
Ms.Sneha S. Dwivedi, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 3rd May 2024

ORAL JUDGMENT :-

. By this Appeal, the Appellants are seeking
enhancement of the compensation.

2. It is contention of the learned counsel for the Appellant that, the Claim Petition was filed under Section 163A of the Motor Vehicles Act, ('M.V. Act', for short). At the time of the accident deceased was below 18 years of the age. As per the second Schedule of Motor Vehicle Act, the income of the deceased should be from Rs.12,000/- to Rs.18,000/- per year. The Tribunal has considered notional income of the deceased at Rs.12,000/-, it should be Rs.18,000/-. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that, the Tribunal has considered all the aspects while passing 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 ('The Tribunal' for short), Pune.

5. While considering the income of the deceased, the Tribunal has considered monthly income of the deceased at

Rs.12,000/-. As per second schedule it should be from Rs.12,000/- to Rs.18,000/-. At the time of accident deceased was around 18 years of age hence, I am considering Rs.16,000/- as yearly income of the deceased. Considering the yearly income of Rs.16,000/-, the Claimant's are entitled for following compensation.

Particulars	Amount
Yearly Income (As per Second Schedule)	Rs.16,000.00
Total Income & Age of deceased considered by the Tribunal is 19) $16,000 \times 19 = 3,04,000$	Rs.3,04,000.00
Reduced 1/3rd from Total Income $Rs.3,04,000/- (-) Rs.1,01,333/- =$ $Rs.2,02,667/-$	Rs.2,02,667.00
Awarded Compensation Rs.1,52,000/-	Rs.1,52,000.00
Total Enhanced amount Payable $Rs.2,02,667/- (-) Rs.1,52,000/-$	Rs.50,667.00

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimant's are entitled for enhanced amount Rs.50,667/- @ 7.5% interest per annum from date of the filing of the Claim Petition till

realization of the amount.

(iii) The Respondent-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within 6 weeks after receipt of this order.

(iv) The Claimant is permitted to withdraw the deposited amount alongwith interest.

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

(SHIVKUMAR DIGE, J.)

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