

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

FIRST APPEAL NO. 170 OF 2024

National Insurance Company Ltd.
Br. Ganeshchandra Chambers, Powai
Naka, Satara, Mumbai Regional
Office- III, Royal Insurance Building,
1st and 3rd Floor, 14.J Tata Road,
Churchgate, Mumbai – 400 020.

....Appellant

V/s.

1. Manisha Vijay Pawar
Age:- 35 years, Occ- Household
2. Akash Vijay Pawar
Age:- 12 years, Occ- Education
3. Rohit Vijay Pawar
Age:- 10 years, Occ- Education
Respondent Nos. 2 and 3 are minors
represented through mother
Respondent No.1 Manisha Vijay Pawar
4. Yamunabai Baburao Pawar
Age:- 73 years, Occ- Household

All R/o 172, Yadogopal Peth, Satara.
5. Salvador Igneses Fernandis
Age:- 62 years, Occ:- Transport, R/o.
1999 Ana Terrese Villa Tarodi Gaon
Uttan Road, Bhainder (West),
Thane – 401106.

....Respondents

Mrs. S. S. Dwivedi, for the Appellant.

Mr. S. B. Deshmukh, for Respondent Nos.1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th FEBRUARY, 2024

ORAL JUDGMENT:-

1. The issues involved in this Appeal are income of deceased is considered on higher side and consortium amount is on higher side.

2. It is contention of learned counsel for the Appellant-Insurance Company that the Tribunal has considered the monthly income of deceased at Rs.6,000 per month, which is on higher side. Learned counsel further submitted that the Tribunal has awarded Rs.4,25,000/- as consortium amount, which is excessive amount. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that while passing the judgment and order the Tribunal has considered all the aspects. On that basis, judgment and order is passed. Hence, no interference

is required in it.

4. I have heard learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Satara [“The Tribunal” for short]. To prove the income of the deceased, the Claimants have examined. Claimant No1, PW-1-Manisha Pawar, wife of deceased. She has stated that deceased was working as a peon at Gurukul Primary School, Satara and he was getting monthly salary of Rs.5780/-. In support of evidence of PW-1, the Claimants have examined the Principal of Gurukul Primary School, PW-2-Shila Velhal. She has stated that deceased was working in their school as peon and he was drawing salary of Rs.5780/- p.m. Considering the evidence on record, the Tribunal has considered Rs.6,000/- p. m. as a salary of deceased, in my view it is on higher side. As it has come in evidence of PW-1 and PW-2 that deceased was getting monthly salary of Rs.5780/- per month, hence, I am considering this salary as monthly income of the deceased. While awarding consortium amount, the Tribunal has awarded

Rs.4,25,000/-. As per view of Hon'ble Apex Court in case of *Magma General Insurance Co. Ltd. V/s. Nanu Ram¹*, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. Considering these calculation's the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Salary of Deceased (Rs.5780 x 12)	Rs.69,360.00
Future Prospects Rs.5780 + 30% Future	Rs.15,606.00
Deduction Personal Expenses $\frac{1}{4}$ (Four Dependents)	(-)Rs.17,340.00
	Rs.67,626.00
Rs.67626 X 14 Multiplier	Rs.9,46,764.00
Consortium : 48,000.00 x 4	Rs.1,92,000.00
Funeral Expenses : 18,000.00	
Loss of Estate : 18,000.00 (+)	(+) 36,000.00
Compensation Entitled	Rs.11,74,764.00
Awarded by Tribunal	(-) Rs.14,07,800.00
Enhanced Amount	Rs.2,33,036.00

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

ORDER

1 2018 ACJ 2782 (SC)

- i. The Appeal is partly allowed.
- ii. The Appellant is permitted to withdraw Rs.2,33,036/- with proportionate interest out of deposited amount.
- iii. The Claimants are permitted to withdraw balance amount with proportionate interest.
- iv. The statutory amount along with interest be transferred to the Tribunal. The parties are at liberty to withdraw it, as per rule.
- v. All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)