

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

FIRST APPEAL NO.1564 OF 2007

- 1. Smt.Sujata Suryakant @ Suresh Talekar,** Age-38 years, Occupation : Household }
- 2. Smt. Parvati Shankar Talekar** Aeg-64 years, Occupation : Nil }
- 3. Swapnil Suryakant Talekar** Age-20 years, Occupation : Education }
- 4. Vaibhav Suryakant Talekar** Age-17 years, Occupation : Education }
- 5. Sachita Suryakant Talekar** Age-16 years, Occupation : Education }
- (Appellant Nos.4 and 5 Minor, Thr. Her Natural Guardian & Mother Appellant No.1) }
- All R/at Wing (Talekar Vasti) }
- Taluka-Khandala, District-Satara. }

....Appellants
(Original
Applicants)

Versus

- 1. Mr.Tukaram Baban Navale** Age-Adult : Occupation : Business R/at Sector No.24, C/23, 1st Floor, Room No.7, Sanpada, New Mumbai, Dist- Thane. }
- 2. The New India Assurance Co. Ltd.** Parijat Complex, Powai Naka, Satara City, Satara }

....Respondents
(Original
Opponents)

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Mr.Yogesh Pande, for the Appellant.
Mr.V.N. Sagare, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th JANUARY 2024

ORAL JUDGMENT :-

. By way of this Appeal, the Claimant's are seeking enhancement of compensation.

2. It is contention of the learned counsel for the Appellant's-Claimant's that, the deceased was working as machine operator and he was getting salary of Rs.6030/- but after deducting PFP Tax, LIC Policy and Society in all Rs.2,888/-. The Tribunal has considered monthly income of deceased at Rs.3,142/-, which is not proper. The learned counsel further submitted that, the Tribunal has not awarded future prospects. The Tribunal has awarded consortium amount on lower side, it be awarded.

3. It is contention of the learned counsel for Respondent-Insurance Company that, while awarding compensation the Tribunal has considered all the aspects, on that

basis judgment and order is passed. No interference is required in it.

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

5. It is Claimant's case that the deceased was working as machine operator and he was getting salary of Rs.6030/- per month. The Claimant No.1 has examined herself to prove the income of deceased. She has stated that, the deceased was permanent in service and he was also cultivating his ancestral land and he had income of Rs.24,000/- per annum. The Salary Certificate is at Exhibit-46. To prove the salary, the Claimant's have examined PW-2 Nivruti, he has stated that Claimant was getting salary of Rs.6,030/- per month.

6. While dealing with the issue of income, the Tribunal after deducing PFP Tax, LIC Policy and Society in all Rs.2,888/-, considered Rs.3,142/- per month as salary of the deceased. In my view, the salary considered by the Tribunal is on lower side, as the amount paid to PFP Tax, LIC and Society cannot be considered

as a deduction from a salary. Hence I am considering salary of deceased at Rs.6,000/- per month. The Tribunal has not considered future prospects. As per view of the Hon'ble Apex Court in the case of *National Insurance Co. Ltd. V/s. Pranay Sethi*¹, the Claimant's are entitled for 30% future prospects. The Tribunal has applied multiplier of 10. At the time of the accident deceased was 41 years old, the proper multiplier is 14. The Tribunal has awarded consortium on lower side. As per view of Hon'ble Apex Court in case of *Magma General Insurance Co. Ltd. V/s. Nanu Ram*², 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 (Exh-46)	Rs.6,000.00
Future Prospects	
Rs.6000 + 30% Future = Rs.6000/- +	Rs.7,800.00
Rs.1800/-	
Deduction Personal Expenses $\frac{1}{4}$ (Five Dependents)	Rs.1,950.00
Net Monthly Income	Rs.5,850.00

1 2017 ACJ 2700 (SC)

2 2018 ACJ 2782 (SC)

Rs.5850 X 12 X 14 Multiplier	Rs.9,82,800.00
Consortium : 48,000.00 x 5	(+) Rs.2,40,000.00
Funeral Expenses : 18,000.00	
Loss of Estate : 18,000.00	
Compensation Entitled	Rs.12,58,000.00
Awarded by Tribunal	(-) Rs.2,81,000.00
Enhanced Amount	Rs.9,76,600.00

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimants are entitled for enhanced compensation of Rs.9,76,600/- @ 7.5% per annum from the date of the filing of Claim Petition till realization of the amount. Out of this amount Rs.2,40,000/- is consortium amount. The Claimant's are entitled for interest @ 7.5% on this amount from 1st November 2017 till realization of the amount.

(iii) The Respondent-Insurance Company shall deposit enhanced amount with interest within eight weeks after receipt of the order.

(iv) The Claimants are permitted to withdraw the deposited amount alongwith interest.

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

(SHIVKUMAR DIGE, J.)