IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1016 OF 2015

Royal Sundaram Alliance Insurance Co. Ltd., Subramaniam Building, IInd Floor, No.1 Club House Road, Annasalai, Cheenai-600 002. Thr. Mr.Sandip Jadhav, Manger Legal	}	....(Orig. Opponent No.3 **....Appellant**

Versus

1. Smt.Leelavati @ Leelabai Sambhaji Botre Age-38 years, Occ : Household **2. Kum.Manisha Sambhaji Botre** Age-19 years, Occ : Education **3. Kum.Avinash Sambhaji Botre** Age-18 years, Occ : Education **4. Kum.Sachin Sambhaji Borte** Age-16 years, Occ : Education Claimant No.4 being minor through natural Guardian his mother Petitioner No.1. All R/at Post-Pargaon, Taluka-Daund, District-Pune. **5. Mr.Arvind Jagnnath Bhosale** Age-Adult, Occ : Business R/at-Rui, Taluka-Baramati, District-Pune.	}	**...Respondents**

Mr.Nikhil Mehta i/b KMC Legal Venture, for the Appellant.
Mr.R.S. Kate, for Respondent Nos.1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 31st JANUARY 2024

ORAL JUDGMENT :-

. The issue involved in this Appeal is income of deceased is considered on higher side.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, the Tribunal has considered income of deceased from milk business at Rs.1,35,000/- per year and from hotel business Rs.72,000/- per year, without any evidence on record, which is not proper. Hence, requested to allow the Appeal.

3. The learned counsel for the Respondent-Claimant submits that, the Tribunal has considered all the aspects while passing the order. Hence, no interference is required in it. The learned counsel further submitted that the Tribunal has not awarded future prospects and consortium amount has not been awarded, it be awarded.

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

Tribunal' for short), Baramati.

5. While calculating the income of deceased, the Tribunal has considered income of deceased from milk business at Rs.1,35,000/- per year and income from hotel business at Rs.72,000/- per year.

6. To prove the income of deceased Claimant's have examined four witnesses, from evidence of these witnesses it appears that the deceased was doing milk business and hotel business. He used to deposit amount in pigmi account. Considering evidence on record the income of the deceased considered by the Tribunal is proper. Moreover, while calculating the compensation the Tribunal has not awarded 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 Claimants are entitled for 40% future prospects. The Tribunal has awarded consortium amount of Rs.75,000/- which is 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

1 2017 ACJ 2700 (SC)
2 2018 ACJ 2782 (SC)

consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. There are four Claimants. Considering the fact that, the Tribunal has not awarded future prospects and consortium amount awarded on lower side. If these amount included in the income amount of the deceased, it matches, the income of deceased considered by the Tribunal.

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

ORDER

(i) The Appeal is dismissed. No order as to cost.

(ii) The Claimants are permitted to withdraw the amount deposited by the Appellant along with accrued interest thereon.

(iii) The statutory amount along with interest be transferred to the Tribunal. The parties are at liberty to withdraw it, as per Rules.

(iv) Pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)