

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

FIRST APPEAL NO. 382 OF 2016

**NILAM
SANTOSH
KAMBLE**

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1. Smt.Shobha Rangrao Patil Age-41 years, Occ : Household	} } } }	
2. Kum.Aniket Rangrao Patil Age-21 years, Occ : Education	} } } }	
3. Kum.ankita Rangrao Patil Age-18 years, Occ : Education	} } } }	
All R/o. Mahe, Post Washi, Taluka-Karvir, District-Kolhapur.	} } } }	(Org. Claimants) ...Appellants

Versus

1. Shri.Milind Annasaheb Sale Age-50 years, Occ : Business R/at Bar Quarter No.5, Building No.1, STS Campus, Kushgaon (BK), District- Pune-410 401 Lonawala Pune	} } } } } }	(Org. Opp. Party 1)
2. ICICI Lombard General Insurance Co. Ltd. Near ICICI Bank, Bagal Chowk, Kolhapur.	} } }	Respondents

Mr.Jayant J. Bardeskar, for the Appellants.
 Mr.Rajesh Kanojia i/b Res Juris, for the Respondents.

**CORAM : SHIVKUMAR DIGE, J.
DATE : 21st MARCH 2024**

ORAL JUDGMENT :-

. The issues involved in this Appeal are consortium amount is awarded on lower side and rate of interest.

2. It is contention of the learned counsel for the Appellant-Claimant that the Tribunal has not awarded consortium amount and the Tribunal has awarded interest on compensation amount from date of the recording of evidence, it should be from the date of the filing Claim Petition. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that the Claim Petition was filed under Section 163A of the Motor Vehicles Act, ('M.V. Act' for short) 1988, Hence, the Claimant's are not entitled for consortium amount. They are entitled for consortium amount as per second schedule of M.V. Act. The learned counsel further submitted that the Tribunal has awarded interest from the date of recording of evidence, which is proper. 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), Kolhapur.

5. While awarding compensation the Tribunal has not awarded consortium amount. As per view of Hon'ble Apex Court in case of *Magma General Insurance Co. Ltd. V/s. Nanu Ram*¹, 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.

6. It is contention of the learned counsel for the Respondent-Insurance Company that, as Claim Petition was under Section 163A of the M.V. Act, the Claimant's are not entitled for consortium amount. In my view in the case of *Magma General Insurance Co. (Supra)* and in the case of *National Insurance Co. Ltd. vs. Pranay Sethi*², the Hon'ble Apex Court has observed about entitlement of compensation of the Claimant's. Hence, I am considering the consortium amount. It is settled principal of law the Claimant's are entitled for interest on compensation amount from the date of the filing Claim

1 2018 ACJ 2782 (SC)

2 2017 ACJ 2700 (SC),

Petition. Hence, I am considering interest on compensation from date of the filing of the Claim Petition. Considering these calculations the Claimants are entitled for following compensation.

Particulars	Amount
Yearly Income Rs.40,000/-	Rs.40,000.00
Multiplier 14	Rs.5,60,000.00
Rs.40,000/- x 14	
1/3 Deduction	Rs.1,86,666.00
Consortium Rs.48,000/- x 3	Rs.1,44,000.00
Funeral Expenses	Rs.18,000.00
Medical Expenses	Rs.1,00,000.00
Loss of Estate	Rs.18,000.00

	Rs.6,53,334.00
Tribunal Awarded	(-)Rs.5,07,000.00
Enhanced Amount	Rs.1,46,334.00

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimant's are entitled for enhanced amount Rs.1,46,334/- @ 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's are entitled on interest amount awarded by the Tribunal and enhanced amount from the date of the filing of the Claim Petition.

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

(vi) The Claimant's shall pay Deficit Court Fees on enhanced amount.

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

(SHIVKUMAR DIGE, J.)