IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1485 of 2010

1	Kantabai Sampat Pawar, Age - 49 years, Occu – Household.		
2	Bapurao Sampat Pawar, Age – 27 years, Occu – Service.		
3	Ashok Sampat Pawar, Age – 24 years, Occ – Education		
4	Vijay Sampat Pawar, Age – 22 years, Occu – Education, All R/at – Ramnagar, Behind Sahjivan Society, Chinchwad, Pune – 411 019.	….	Appellants (Orig. Applicants)
	Versus		
1	M/s. Tata Motor Ltd., Having its office at Pimpri, Pune – 411 018.		
2	The New India Assurance Co. Ltd., New India Assurance Bldgd., 87, M. G. Road, Fort, Mumbai – 400 023.	….	Respondents (Orig. Opp. Party and Insurer)

Mr. T. J. Mendon, Advocate for the Appellants.
Ms. Dhanshree S. Padwal i/b. Mr. Suresh Padwal, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th MARCH, 2024.

Oral Judgment :

1. By way of this appeal, the appellants/claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the appellants/claimants that the deceased was running shop by name “M/s. Vijay Glass Works” and was getting income of Rs.8,000/- per month but the Tribunal has considered monthly income of deceased at Rs.2,000/-, which is on lower side. Learned counsel further submitted that the Tribunal has awarded consortium amount on lower side, it be awarded and future prospect has not been awarded, it be awarded. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.2-Insurance Company that while passing the judgment and order, the Tribunal has considered all the aspects, no interference is required in it.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Pune (for short “the Tribunal”).

5. To prove the income of the deceased, the claimants have examined claimant No.3 at “Exhibit-15”. He has stated that his father was running shop by name “M/s. Vijay Glass Works” and was getting Rs.8,000/- per month. In cross-examination, this witness admitted that he and his other brothers were helping his father in the said business and the income of Rs.8,000/- includes their income also. He further admitted that the said shop is running after death of his father. While dealing with the issue of income of the deceased, the Tribunal has observed that

Applicant Nos.2 to 4 are the major sons of the deceased and the Tribunal has considered monthly income of the deceased at Rs.2,000/-. In my view, it is on lower side. Though Applicant Nos.2 to 4 were major, they were dependent on the income of the deceased who was Karta of the family. Hence, I am considering Rs.3,000/- as monthly income of the deceased.

5.1. While awarding compensation, the Tribunal has not awarded future prospects. As per the view of Hon'ble Apex Court in the case of ***National Insurance Co. ltd. vs. Pranay Sethi , 2017 ACJ 2700(SC),*** the claimants are entitled for future prospects.

5.2. The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled for Rs.48000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18000/- for funeral expenses.

5.3. Considering the above calculations, the claimants are entitled for following compensation :

Particulars	Rs.	Amount
Annual Income of the deceased (Rs.3000/- pm x 12)	Rs.	36000.00
10% future prospects	Rs.	3600.00
Total	Rs.	39600.00
1/4th deductions towards personal expenses	Rs.	9900.00
Total	Rs.	29700.00
Rs.29700- x 11(multiplier)	Rs.	326700.00

Consortium (Rs.48000/- x 4 claimants)	Rs.	192000.00
Loss of Estate	Rs.	18000.00
Funeral Expenses	Rs.	18000.00
Total Compensation.	**Rs**	**554700.00**

The Tribunal has awarded Rs.1,37,000/-, if this amount is deducted from the amount of Rs.5,54,700/- considered by this Court, it comes to Rs.4,17,700/-. The claimants are entitled for this amount.

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

O R D E R

1. The appeal is allowed.
2. The claimants are entitled for enhanced compensation of Rs. 4,17,700/-@ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.2,28,,000/- is consortium amount, the claimants are entitled for 7.5% interest per annum on this amount from 1st November 2017 till realisation of the amount.
3. Respondent No.2-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.
4. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

5. The claimants shall pay court fees on enhanced amount as per Rule.

7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)