

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

FIRST APPEAL NO.1193 OF 2014

The New India Assurance Co. Ltd Nashik Divsional Office-I (150700) Gurunanak House, 1 st Floor, Above Wasan Auto, Mumbai Naka, Nasik-422 001.	} } } }	...Appellant
<i>Versus</i>		
1. Smt. Namrata Jairaj Palve Age-30 years, Occ : Housewife (For herself and natural Guardian, Mother of the Applicant No.2.)	} } } }	
2. Kum.Akash Jairaj Palve Age-16 years, Occupation : Education	} }	
3. Kum.Pratik Jairaj Palve Age-18 years, Occupation : Education	} }	
4. Sou.Sindhu Bhimrao Palve Age-67 years, Occupation : Household 5. Shri.Bhimrao Ambuji Palve Age-70 years, Occupation : Nil	} } } } } }	Deleted by Order dated 18 th July 2022
All R/at C-9/22, Ext. No.1, First Floor, Near Vaishnavi Devi Mandir, Pimpri, Pune-411 004.	} }	
6. Mr.Ashok Kisan Gaikhe Age-Adult, Occupation : Business R/at Village Palse, Dist-Nasik Maharashtra Pune-422 201	} } } }	

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7. Mr.Atul Ramdas Shinkar Age-37 yers, Occupation : Driver & Business R/at Flat No.1, Building No.4, Dharma Apartment, Tapovan Mandir, Behind Kirti Hospital, Pimpri, Pune-411 017.	} } } } }	
8. Bajaj Allianz General Insurance Co. Ltd., Pune Office, “GE Plaza”, Airport Road, Yerwada, Pune-411 006.	} } }	Respondents

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Mr.Shrikanant M. Dange, for the Appellant.

Mr.Rajesh More a/w Mr.Soham Pawar, for Respondent Nos.1 to 5.

Mr.Devendranath S. Joshi, for Respondent No.8.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 20th FEBRUARY, 2024.

ORAL JUDGMENT :-

1. The issue involved in this Appeal is future prospects is awarded on higher side.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, at the time of the accident deceased was 48 years old, so the Claimant's are entitled for 25% future prospects, but Tribunal has awarded 30% future prospects, which is erroneous. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-

Claimant's that, the Tribunal has considered all the aspects while passing judgment and order. The learned counsel further submitted that, consortium amount is awarded on lower side, it be awarded and requested to dismiss the Appeal.

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

5. While awarding compensation the Tribunal has awarded 30% future prospects. At the time of the accident deceased was 48 years old. 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 25% future prospects. Hence, I am considering 25% future prospects. The Tribunal has awarded consortium of Rs.2,25,000/-. 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 calculations the Claimants are entitled for following compensation.

¹ 2017 ACJ 2700 (SC)

² 2018 ACJ 2782 (SC)

Particulars	Amount
Yearly Income	Rs.1,30,000.00
(+) Future Prospects (25%)	Rs.32,500.00
Total Income	Rs.1,62,500.00
(-) Personal Expenses (1/4th amount)	Rs.40,625.00
Net Loss to family	Rs.1,21,875.00
Multiplier 13 (Age 43)	
Future Loss of Income	Rs.15,84,375.00
Loss of Consortium : Rs.48,000 x 5	Rs.2,40,000.00
Loss of Estate	Rs.18,000.00
Funeral Expenses	Rs.18,000.00
Total Just Compensation Payable	Rs.18,60,375.00
Tribunal Awarded	Rs.18,72,750.00
Excess Amount	Rs.12,375.00

6. The Appellant-Insurance Company is entitled for the excess amount of Rs.12,375/-.

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

ORDER

- (i) The Appeal is partly allowed.
- (ii) The Appellant-Insurance Company is permitted to withdraw Rs.12,375 along with proportionate interest out of the deposited amount.

- (iii) The Claimant's are permitted to withdraw balance amount along with proportionate interest.
- (iv) The statutory amount along with interest be transmitted to the Tribunal. Parties are at liberty to withdraw it, as per Rule.
- (v) Pending Civil/Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)