

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

FIRST APPEAL NO. 467 OF 2023

The New India Assurance Co. Ltd.)
 Having Office at: New India Assurance)
 Building, 87, M. G. Road, Fort,)
 Mumbai-400 001, Mumbai through Mumbai)
 Legal hub, 41-B, 4th floor, Maker Tower-E,)
 Near World Trade Centre, Cuffee Parade,)
 Mumbai- 400 005)....Appellant
 (Org. opp. No.2)

Versus

1. Shambhavi Shaunak Kanhav)
 Aged about 28 years, Residing at: 307,)
 Building No.1, B. Wing, 3rd Floor,)
 Narendra Camp, Vaishali Nagar,)
 Dahisar-E, Mumbai)

2. Ashok Milapchand Jain,)
 B-26, Adinath Society,)
 Pune-411037.)....Respondents
 (Res. No.1 is the Org. Applicant
 /Claimant and Res. No.2 is the
 original opponent no.1)

Mr. Sandeep Sharad Jinsiwale, Advocate for the Appellant.
Mr. T. J. Mendon, Advocate for the Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd FEBRUARY, 2024.

Oral Judgment . :

1. The issue involved in this appeal is compensation awarded on higher side under non pecuniary heads.
2. It is contention of learned counsel for the Appellant/Insurance Company that the Tribunal has awarded Rs.3,25,000/- under non pecuniary heads i.e. for love and affection and funeral expenses and loss of consortium, which is on higher side. Hence, requested to allow the appeal.
3. It is contention of learned counsel for the Respondent/Claimant that while awarding compensation the tribunal has not awarded future prospectus. The yearly income of the claimant is considered at Rs.5,53,333/-, if this amount considered, it would come more than compensation awarded under non pecuniary heads. Hence, requested to dismiss the appeal.
4. I have heard both learned counsel. Perused judgment and

order passed by the Motor Accident Claims Tribunal, Mumbai (for short “the Tribunal”).

5. While awarding compensation, the tribunal has awarded Rs.3,25,000/- under non pecuniary heads i.e. for consortium amount for love and affection and funeral expenses. As per the view of Hon’ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled for Rs.48,000/- for consortium amount and Rs.18,000/- for loss of estate and Rs.18,000 for funeral expenses. It appears from record, 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 entitle for future prospect, if future prospects amount is considered, it would go more than consortium amount considered on higher side. Learned counsel for the Claimant submitted that the claimant would prefer appeal for future prospects, if this amount is adjusted in amount considered on higher side, his statement is accepted.

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

ORDER

- i. Appeal is dismissed.
 - ii. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. The statutory amount be transmitted to the tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
8. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)