

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

FIRST APPEAL NO. 648 OF 2023

1. Sindhutai Bapu Gawade	}	
Age- 27 years, Occ : Housewife	}	
2. Vedika Bapu Gawade	}	
Age-6 years, Occ : education	}	
3. Mayuri Bapu Gawade	}	
Age- 4 years, Occ : Nil	}	
4. Meghraj Bapu Gawade	}	
Age- 4 years, Occ : Nil	}	
All are R/at Flat No-19, Vaishnav	}	
Complex, Sahyog Society, Sambhaji	}	
Nagar, Baramati, Taluka-Baramati, Dist-	}	
Pune	}	
(Appellant Nos.2 to 4 being minors are	}	
represented by their natural guardian	}	
mother i.e. the Appellant No.1, herein)	}	
5. Heerabai Vishwanath Gawade	}	
Age-60 years, Occ: Housewife,	}	
R/at Flat No.19, Vaishnav Complex,	}	
Sahyog Society, Sambhaji Nagar,	}	
Baramati, Taluka Baramati, Dist-Pune	}	...Appellants/ Original Claimants

Versus

The Managing Director	}	
Pune Mahanagar Parivahan	}	
Mahamandal Limited (PMPML)	}	...Respondent/ (Original Opponent)
Having Office At : PMT building,	}	
Swargate, Pune.	}	

Mr.A.R. Avachat a/w Mr.S.H. Deshpande a/w Mr.Pramod Dhole,
for the Appellant.

Ms.Madhavi Mangesh Tavanandi, for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th JANUARY 2024

ORAL JUDGMENT :-

. The issue involved in this Appeal is future prospects is not awarded and consortium amount awarded on lower side.

2. It is contention of the learned counsel for the Appellant that, the Tribunal has considered annual income of deceased at Rs.2,82,000/- and after deducting 1/4th amount for personal expenses, the Tribunal has considered gross income at Rs.2,08,000/-, but while calculating the compensation the Tribunal has not awarded future prospects, it be awarded. The learned counsel further submitted that, there are five Claimant's but Tribunal has awarded consortium to Claimant No.1 only. Hence, it be awarded and requested to allow the Appeal.

3. It is contention of the learned counsel for Respondent-Corporation that, while passing the order, the Tribunal has considered all the aspects and on that basis judgment and order is passed and no interference is required in it.

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

5. While considering the income of the deceased, the Tribunal has considered annual income at Rs.2,82,000/- and after deducting 1/4th amount for personal expenses the Tribunal has considered gross annual income at Rs.2,08,000/-. But while calculating the compensation the Tribunal has not awarded future prospects. As per view of the Hon'ble Apex Court in case of *National Insurance Co. Ltd. vs. Pranay Sethi*¹, the Claimant's are entitled for 40% future prospects. The Tribunal has awarded Rs.40,000/- for loss of consortium to one Claimant only. As per view of the Hon'ble Apex Court in case of *Magma General Insurance Co. Ltd. vs. Nanu Ram*², each Claimant is entitled for Rs.48,000/- as consortium amount, there are total five Claimant's. Hence, I am awarding consortium amount to remaining four Claimant's .

1 2017 ACJ 2700 (SC)

2 2018 ACJ 2782 (SC)

6. In view of above calculations the Claimant's are entitled for following compensation.

Particulars	Amount
Annual Income	Rs.2,80,000.00
Deduction towards personal expenditure 1/4th means	Rs.70,000.00
Gross Annual Income	Rs.2,10,000.00
Multiplier Rs.2,10,000 x 16	
Loss of future Income	Rs.33,60,000.00
40% Future prospects which is not granted by the Tribunal (Rs.33,60,000 + 40%)	Rs.47,04,000.00
75% of the said income in view of Contributory Negligence	Rs.35,28,000.00
Loss of Consortium (for each Claimant which tribunal has granted only to lump sum and increase of 20% as per Pranay Sethi's Judgment) Rs.48,000 X 5	Rs.2,40,000.00
Funeral Expenses	Rs.18,000.00
Loss of Estate	Rs.18,000.00
Total Compensation awarded	Rs.35,88,000.00
Tribunal Awarded	Rs.25,90,000.00
Enhanced Compensation	Rs.9,98,000.00

7. The Claimant's are entitled for enhanced compensation of Rs.9,98,000/-

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

ORDER

- (i) The Appeal is allowed.
- (ii) The Claimants are entitled for enhanced compensation of Rs.9,98,000/- @ 7.5% per annum from the date of the filing of Claim Petition till realization of the amount.
- (iii) The Respondent shall deposit enhanced amount along with accrued interest within six weeks, after receipt of this order.
- (iv) The Claimants are permitted to withdraw the deposited amount alongwith interest.
- (v) The statutory amount be transferred to the Tribunal.
- (vi) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)