

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

FIRST APPEAL NO.1144 OF 2019

Reliance General Insurance Co. Ltd.	}	
Thr. Its Corporate Office	}	
4 th Floor, Chintamani Avenue, Off	}	
Western Express Highway, Infront of	}	
Virwani Industrial Estate, Goregaon	}	
(E), Mumbai-63.	}	Appellant

Versus

NILAM
SANTOSH
KAMBLE

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by NILAM
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Date: 2024.03.18
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1. Shri.Shriram Laxman Tandel	}	
Age-58, Occ : Shetkari	}	(Org. Applicant No.1)
2. Sau.Narmada Shriram Tandel	}	
Age-58 years, Occ : Housewife	}	(Org. Applicant No.2)
3. Kum.Ashlesha Shriram Tandel	}	
Age-24 years, Occ : None	}	(Org. Applicant No.3)
	}	
All R/at House No.202, Pagar	}	
Koliwada, Revdanda, Taluka-Alibag,	}	
District-Raigad.	}	
4. Shri.Krishna Jaywant Patole	}	(Org. Opponent No.1)
Age-40 yers, Occ : Business	}	
R/at Bhaljit Nagar, PO : Thal, Taluka-	}	
Alibag, District-Raigad.	}	Respondents

Mr.Rahul Mehta i/b KMC Legal Venture, for the Appellant.
Mr.S.A. Ghaisas, for Respondent Nos.1 to 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th FEBRUARY 2024

ORAL JUDGMENT :-

. The issue involved in this Appeal is deduction of the amount for personal expenses.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, the deceased was Bachelor. While deducting the amount for personal expenses the Tribunal has deducted 1/3rd amount, it should be ½. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for Respondent-Claimants that, the Tribunal has considered all the aspects while passing the order. No interference is required in it. Hence, requested to dismiss the Appeal.

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

5. Admittedly, at the time of the accident the deceased was Bachelor. The Tribunal should have considered ½ amount for personal expenses but Tribunal has deducted 1/3rd amount, which is erroneous. Hence, I am considering ½ amount for

personal expenses. The Tribunal has awarded consortium amount on lower side. 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. There are three Claimants it comes to Rs.1,44,000/-.

6. Considering the above calculation the excess amount comes to Rs.7,44,192/-. The Appellant-Insurance Company is entitled for this amount.

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.7,44,192/- with proportionate interest.
- (iii) The Claimant's are permitted to withdraw balance amount with proportionate interest.
- (iv) The Claimant's are entitled for interest on consortium amount Rs.1,44,192/- from 1st November 2017 till realization of the amount.
- (v) The statutory amount alongwith interest be transferred to the Tribunal. The parties are at liberty

1 2018 ACJ 2782 (SC)

to withdraw it as per Rules.

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

(SHIVKUMAR DIGE, J.)