

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 105 OF 2021

Bharti Axa G.I.C. Ltd.Appellant
 R/o. Millenium Star, Office No. 9, Near Ruby Hall Org. Opponent
 Clinic Dholepatil Road, Pune 411 001. Through Mr. No. 2
 Kalpesh Mody : Manager Legal

Versus

1. Manoj Sajanrao Nikam Org. Applicant
 age 46 years, Occ-Service. No. 1

2. Sau. Sunita Nikam Org. Applicant
 Age- 40 years, Occ-Household Both R/o L.A.P. No. 2
 Nagar, Lasalgaon Tal Niphad, Dist. Nashik.

3. Anjum Begam, w/o Ismile Khan (Owner) Age-
 Major, Occ-Household & Trader R/o Babu Quater (Org Opposite
 Road, Shivpuri – 467 001, Madhya Pradesh. Party)

....Respondents

Mr. Rahul Mehta, i/by KMC Legal Venture, Advocate for the
 Appellant.

Mr. Pritesh K. Bohade, Advocate for the Respondent No. 1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 17th JANUARY, 2024.

ORAL JUDGMENT :

1. The issues involved in this appeal are income of deceased is
 considered on higher side and the compensation awarded under

conventional heads.

2. It is contention of learned Counsel for the Appellant that the Tribunal has considered monthly income of the deceased at Rs. 15,000/- p.m. without any evidence on record, which is on higher side. Learned Counsel further submitted that the Tribunal has awarded total amount of Rs. 2,25,000/- for consortium amount, which is on higher side. Hence requested to allow the appeal.

3. It is contention of the learned Counsel for the Respondents/Claimants that the Tribunal has considered all aspects while passing the Order. Hence no interference is required in it.

4. I have heard both learned Counsels, perused the judgment and order passed by the Motor Accidents Claim Tribunal, Mumbai, (for short “the Tribunal”).

5. It is the Claimants case that deceased was Director in Samartha Shikshan Shastra Mahavidyalaya, Satpur and he was getting honorarium of Rs. 15,000/- p.m. He was taking education in KTHM college, in M.Sc. 2nd year. Considering the evidence on record the receipts of honorarium are produced on record show that the deceased was getting honorarium of Rs. 15,000/- which is at Exhibit-29. Considering the evidence on record the Tribunal has considered

monthly income of deceased at Rs. 15,000/- p.m. I do not find infirmity in it as, deceased was taking education in M.Sc. 2nd year and had he been completed the M.sc he could have got a good job and would have been earned handsome salary.

6. The Tribunal has awarded Rs. 2,00,000/- for love and affection and Rs. 25,000/- for funeral expenses it is on higher side. 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/- as consortium amount and Rs. 18,000/- for funeral expenses and Rs. 18,000/- for loss of estate. There are 2 Claimants the total of it comes to Rs. 1,32,000/- if this amount deducts from the amount awarded by the Tribunal i.e. Rs. 2,25,000/- it comes to Rs. 93,000/- the Appellants are entitled for this amount, this is an excess amount.

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

ORDER

- a) The appeal is partly allowed.
- b) The Appellant is permitted to withdraw Rs. 93,000/- along with proportionate interest.
- c) The Claimants are permitted to withdraw

balance deposited amount along with proportionate interest thereon.

d) The Statutory amount be transmitted to the Tribunal. The parties are at liberty to withdraw it as per Rule.

8. The Appeal is disposed off. All pending Applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)