IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.921 OF 2001

1. Shri.Sayad Mira Murtaza (Decd.) }
Father Aged-50 years. }

2. Smt.Begum Sayd Murtaza }
Mother aged 45 years }
Both R/at Village Post Tarewada, Dist-Karwar, Karnataka. } **....Appellants**

Versus

1. Shri.Mahadu Baburao Pasalkar }
R/at A/P. Ambad, Taluka-Velha, District-Poona. }

2. The New India Assurance Co. } **....Respondents**
87, M.G. Road, Fort, Bombay-23 } (Opponents)

Ms.Ketki Gokhale i/b Mr.A.M. Gokhale, for the Appellants.
Mr.I.R. Kulkarni a/w Mr.D.S. Joshi and Mr.Pradyumna Thakur Desai, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th JANUARY 2024

ORAL JUDGMENT :-

. This Appeal is preferred by the Appellant's/Claimants for enhancement of the compensation.

2. It is contention of the learned counsel for the Appellant that, the deceased was driver and working in the garage. While calculating compensation the Tribunal has awarded lumsum compensation of Rs.60,000/-, which is erroneous. The Tribunal has not given future prospects and applied wrong multiplier and consortium amount is not awarded. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that, while awarding compensation the Tribunal has considered all the aspects. The judgment and order passed by the Tribunal is legal and valid 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. Admittedly, deceased died in the accident. It is claimant's case that deceased was driver and working in the garage and he was earning Rs.1,200/- per month. While awarding compensation, the Tribunal has observed that,

"considering the work rendered by the deceased and he was working in the garage as a driver and due to uncertainty of life. In my opinion the lumsum amount is proper" and on that basis the Tribunal has awarded Rs.60,000/- as compensation amount. I am unable to understand the observations of the Tribunal. In my view, when the Tribunal awards compensation it has to be awarded properly on the basis of income of deceased, his age, dependency, future prospects, consortium amount, but it has not been done in present case. It has come on record that the deceased was earning Rs.1,200/- per month, hence I am considering monthly income of the deceased at Rs.1,200/-, while awarding compensation the Tribunal has not considered future prospects. As per view of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. V/s. Pranay Sethi*[1]*,*** Claimant's are entitled for 40% future prospects. The Tribunal has not awarded consortium amount. 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. There are two

1 2017 ACJ 2700 (SC)
2 2018 ACJ 2782 (SC)

Claimants, it comes to Rs.96,000/-, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. Considering this calculation the Claimants are entitled for following compensation.

Particulars	**Amount**
Annual Income (Rs.1200/- per month)	Rs.14,400.00
(+) Future Prospects (40% Addition)	Rs.5,760.00
1/2nd Deduction	Rs.10,080.00
After applying Multiplier of 18	**Rs.1,81,440.00**
Loss of Consortium	Rs.96,000.00
Loss of Estate	Rs.18,000.00
Funeral Expenses	(+) Rs.18,000.00
Total Compensation	**Rs.3,13,440.00**
Awarded by Tribunal	Rs.60,000.00
Difference	**Rs.2,53,440.00**

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

<u>ORDER</u>

(i) The Appeal is allowed.

(ii) The Claimants are entitled for enhanced amount of Rs.2,53,440/- along with accrued interest @ 7.5% per annum from the date of the filing of

Claim Petition till realization of the amount. Out of this amount consortium amount is Rs.96,000/-, the Claimant's are entitled for interest @ 7.5% per annum on this amount from 1st November 2017 till realization of the amount.

(iii) The Respondent-Insurance Company shall deposit enhanced amount within eight weeks after receipt of the order.

(iv) The Claimants are permitted to withdraw the deposited amount alongwith interest.

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

(SHIVKUMAR DIGE, J.)