

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

FIRST APPEAL NO.1411 OF 2010

1. Sou.Suman Chandiram Ahuja } Age-60 years, Occupation : Household } } 2. Shri.Chandiram Hasomal @ Hasoram Ahuja } Age-62 years, Occupation : Business, } (Org. Claimants Both R/o. Near Railway Station, } 3-4) Gandhinagar, Taluka-Karveer, Dist.- } ...Appellants Kolhapur.	
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Versus

1. Shri.Krishnat @ Krushnat Shamrao Patil } Age-Major, Owner & Driver of Tractor. } R/o. Shirola Pulachi, Taluka-Hatkangale, } District-Kolhapur. }	
2. National Insurance Co. Ltd. } (R/No.1 and 2 Branch Office : Ashirwad, 1241, E Ward, } Orig. Shahu Mills Road, Kolhapur, District- } Opponents) Kolhapur. }	
3. Smt. Sapana Kush Ahuja } Age-30 years, Occ: Household, } R/o. C/o. Chetandas Purshnani, Flat No.8, } Amber Apartment, Shashtri Nagar, Ratlam, } Madhyapradesh. }	
4. Kum. Om Kush Ahuja } Age-3 years, Occupation : Nil, }	R/Nos.3 and 4 Claimant Nos.1 and 2)

R/o As Above }
(Respondent No.4 is minor through Natural }Respondents
Guardian Mother Respondent No.3.) }

Mr.Tejal S. Ingale, for the Appellants.
Ms.Shalini Shankar, for Respondent Nos.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st MARCH 2024

ORAL JUDGMENT :-

. By way of this Appeal the Claimant's are seeking enhancement of the compensation.

2. It is contention of the learned counsel for the Appellant's-Claimant's that while awarding compensation the Tribunal has not awarded future prospects and consortium amount is awarded on lower side. Hence, requested to allow the Appeal.

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

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

5. The Tribunal has considered yearly income of the deceased at Rs.1,96,596/- but while awarding compensation the Tribunal has not awarded future prospects. As per view of the Hon'ble Apex Court in the case of *National Insurance Co. Ltd. V/s. Pranay Sethi*¹, the Claimant's are entitled for 40% future prospects, hence, I am considering 40% future prospects. The Tribunal has awarded consortium amount on lower side. As per view of Hon'ble Apex Court in the case of *Magma General Insurance Co. Ltd. V/s. Nanu Ram*², each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. Considering this calculations, the Claimants are entitled for following compensation.

Particulars	Amount
Annual Income	Rs.1,96,596.00

1 2017 ACJ 2700 (SC)

2 2018 ACJ 2782 (SC)

Personal Deduction 1/4th as 4 Claimants	(-)Rs.49,149.00
After Deduction Annual Income	Rs.1,47,447.00
Future Prospects (increase by 40% self Employed)	Rs.58,979.00
Multiplier 17 x Rs.58,979.00	Rs.10,02,643.00
Consortium (Rs.48,000 x 2)	Rs.96,000.00
Total Compensation Payable	Rs.10,98,643.00

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

ORDER

- (i) The Appeal is allowed.
- (ii) The Claimant's are entitled for enhanced amount of Rs.10,98,643/- @ 7.5% interest awarded as per the apportionment by the Tribunal.
- (iii) The Respondent-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within 8 weeks after receipt of this order.
- (iv) The Claimant's and the Respondent No.3 shall file Application for withdrawal of the amount. The Tribunal shall decide said Application on its own

merit.

(v) The Claimant's shall pay Deficit Court fees on enhanced amount.

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

(SHIVKUMAR DIGE, J.)