

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1558 OF 2006

The New India Assurance Co. Ltd.
Sangli, Branch Miraj and Islampur

... Appellant

Versus

- 1 Jagannath Shankar Gaikwad
Age 48, Occ. Service
- 2 Yashoda Jagannath Gaikwad
Age 42, Occ. Household work
Both resident of Shirala, Taluka Shirala,
District Sangli
- 3 Shri Lingappa Ramchandra Mali
Age Major, Occ. Trade,
Resident of Narwad, Taluka Miraj, District Sangli
- 4 Laxman Dnyanu Kadam
Age Major, Occ. Agriculture.
Resident of Kameri, Taluka Walwa, District Sangli

... Respondents

.....

Ms. Shalini Shankar, Advocate for the Appellant.

Mr. Tejpal S. Ingle a/w. Ms. Priyanka Babar, Advocate for Respondent Nos. 1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th APRIL, 2024

ORAL JUDGMENT :

1. The issue involved in this appeal is deduction of amount for personal expenses.

2. It is contention of learned counsel for the appellant that at the time of accident deceased was bachelor. The Tribunal has considered 1/3rd amount for personal expenses it should be ½ but this fact is not

considered by the Tribunal hence requested to allow the appeal.

3. Learned counsel for the respondent Nos. 1 and 2 submitted that the Tribunal has considered all the aspects while passing Judgment and Order, hence no interference is required in it. Learned counsel for the respondent Nos. 1 and 2 submitted that the Tribunal has awarded consortium amount on lower side it be awarded and appropriate order be passed.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Islampur (for short “**the Tribunal**”). Admittedly, at the time of accident deceased was bachelor. The Tribunal should have deducted $\frac{1}{2}$ amount for personal expenses but the Tribunal has deducted $\frac{1}{3}^{\text{rd}}$ amount for personal expenses which is erroneous. Hence I am considering $\frac{1}{2}$ deduction for personal expenses.

4.1. The Tribunal has awarded consortium on lower side. As per the view of the Hon'ble Apex Court in *Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)*, each claimant is entitled to Rs.48,000/- as consortium amount, Rs.18,000/- as a funeral expenses, Rs.18,000/- for loss of estate.

5. Considering above calculations the claimants are entitled for following compensation:

Particulars	Rs.	Entitlement
Monthly Income	Rs.	3,200.00
Annual Income X 12	Rs.	38,400.00
½ deduction personal expenses	Rs.	19,200.00
Multiplier Rs.19,200 X 18	Rs.	3,45,600.00
Consortium (Rs.48,000/- X 2 claimants)	Rs.	96,000.00
Funeral Expenses	Rs.	18,000.00
Loss of Estate	Rs.	18,000.00
Total	Rs.	4,77,600.00
Less compensation awarded by the Tribunal	Rs.	3,51,000.00
Total enhanced amount	Rs.	1,26,600.00

The claimants are entitled for enhanced amount of Rs.1,26,600/-.

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

ORDER

- i. The appeal is partly allowed.
- ii. The claimants are entitled for enhanced compensation of Rs.1,26,600/- @7.5% interest from 1st November, 2007 till realisation of amount.
- iii. The Insurance Company shall deposit enhanced amount along with interest within six weeks.
- iv. The claimants are permitted to withdraw the deposited amount along with accrued interest

thereon.

- v. Statutory amount along with accrued interest be transferred to the Tribunal. Parties are at liberty to withdraw it as per rule.
- vi. The claimants shall pay the deficit Court fees on enhanced amount as per rule.

7. The appeal is disposed of. Pending applications, if any, disposed of.

(SHIVKUMAR DIGE, J.)

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