

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1398 OF 2004

1.	Sunita Hanmantrao Ranavare, Age-32 years, Occ : Housewife.		
2.	Omkar Hamantrao Ranavare, Age-08 years, Occ : Student (A Minor through Appellant No.1 Mother and Natural Guardian)		
3.	.Raghunath Krishnaji Ranavare, Age-62 years, Occ : Nil.		
4.	Malan Raghunath Ranavare, Age-57 years, Occ : Nil, All R/at A.P. Umbraj, Taluka-Karad, District-Satara And Also at : A.P. Jinti, Taluka-Phaltan, District-Satara.		Appellants (Org. Applicants)
	<i>Versus</i>		
1.	Dadaji Ramchandra Ahire Age-Adult, Occ : Business, R/at Patane, Taluka-Malegaon, District-Nashik		
2.	United India Insurance Co. Ltd., Branch Office, Arihant, 16, Mahesh Nagar, Shivaji Circle, Malegaon		(Org. Opponents)Respondents

Ms. Amrin Khan i/b Mr.A.M. Gokhale, Advocate for the Appellants.
Ms.Poonam Mital, Advocate for Respondent No.2-Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th APRIL, 2024.

Oral Judgment :

1. By way of this appeal, the appellants/claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the appellants/claimants that the deceased was working as Civil Engineer in Research and Development Department of Mahindra and Mahindra Limited and he was drawing monthly salary of more than Rs.33,000/- but the Tribunal has considered monthly income of the deceased at Rs.8910/- per month, which is on lower side. Learned counsel further submitted that to prove the income of the deceased, witness has been examined. The salary slip produced on record shows the salary of the deceased was Rs.33,000/- but this fact is not considered by the Tribunal. Learned counsel further submitted that the Tribunal has awarded consortium amount on lower side, it be awarded.

3. It is contention of learned counsel for respondent No.2- Insurance Company that the witness examined by the claimant has stated different salary of deceased. Exhibit-37 shows that salary of deceased was Rs.33,300/-, whereas Exhibit-38 shows that salary of deceased was Rs.20,150/-. Learned counsel further submitted that the Tribunal has

considered all the aspects while passing the judgment and order, no interference is required in it.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Satara (for short “the Tribunal”).

5. To prove the income of the deceased, claimant No.1-Sunita Ranavare has examined herself. She has stated that the deceased was in service as Civil Engineer in Research and Development Department in Mahindra and Mahindra Limited. He was B.Tech and he was getting gross salary of Rs.33,000/- per month. The pay slip is at Exhibit-37. In support of evidence of PW-1, the claimants have examined PW2-Kumar Pherwani, Head of Department in Mahindra and Mahindra Ltd. at Exhibit-36. He has stated that the deceased was working as Senior Engineer in Research and Development Department and he was drawing total gross salary of Rs.12,963/-. He admitted the contents of Exhibit-37. He has further stated that in October-1996, gross salary of the deceased was Rs.20150/-. He further stated that had the deceased been alive, he would have drawn annual salary of Rs.3,00,000/-. In cross-examination, this witness admitted that the salary and other benefits are fluctuating depending upon the financial condition of the company.

5.1. While dealing with the issue of income of the deceased, the Tribunal has observed that taking into consideration the nature of service and net income of the deceased brought on record, the Tribunal has considered monthly income of the deceased at Rs.8910/-. I am unable to understand the observations of the Tribunal as it is claimants' case that deceased was getting gross salary of Rs.33,300/-. Exhibit-37 shows the same salary. Whereas PW2-Kumar Pherwani has stated that in October 1996, the gross salary of the deceased was Rs.20,150/-. This witness, in cross-examination, has stated that salary was fluctuating on the basis of financial condition of the company. Considering this fact and after deducting income tax and profession tax, I am considering monthly income of the deceased at Rs.20,150/-.

5.2. The deceased was permanent employee. As per the view of the Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)**, the claimants are entitled for 50% future prospects.

5.3. The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in **Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)**, each claimant is entitled for Rs.48000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18000/- for funeral expenses.

5.4. In view of above, the claimants are entitled for following compensation :

Particulars	Rs.	Amount
Annual Income of the deceased (Rs.20,150/- pm x 12)	Rs.	2,41,800.00
50% future prospects	Rs.	1,20,900.00
TOTAL	Rs.	3,62,700.00
1/4th deductions towards personal expenses	Rs.	90,675.00
TOTAL	Rs.	2,72,025.00
Rs.272025/- x 17(multiplier)	Rs.	46,24,425.00
Consortium (Rs.48000/- x 4 claimants)	Rs.	1,92,000.00
Loss of Estate	Rs.	18,000.00
Funeral Expenses	Rs.	18,000.00
Total Compensation.	Rs.	48,52,425.00

The Tribunal has awarded Rs.12,23,760/-, if this amount is deducted from the amount of Rs.48,52,425/- considered by this Court, it comes to Rs.36,28,665/-. The claimants are entitled for this amount.

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

O R D E R

1. The appeal is allowed.
2. The appellants/claimants are entitled for enhanced compensation of Rs. 36,28,665/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.2,28,000/- is consortium amount, the claimants are entitled for 7.5% interest per annum on this amount from 1st November 2017 till realisation of the amount.

3. Respondent No.2-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.
4. The appellants/claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
5. The appellants/claimants shall pay court fees on enhanced amount as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)