

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1012 OF 2015

	The New India Assurance Co. Ltd. Ajmer, D.O.Shanti Mansion, Kotwali Scheme Khilano Market, Ajmer, Rajasthan 305 002.	...Appellant
	versus	
1	Pooja Mukund Gondhale, Age 38 years, Occ: Household.	
2	Prajot Mukund Gondhale, Age 18 years, Occ.Student	
3	Prajakta Mukund Gondhale Age 14 years, Occ: Student Through Guardian Smt. Pooja Mukund Gondhale, All residing at Samrat Garden, B2/1, Hadpsar, Pune 411 028.	
4	Chandra Prakash Gurjer S/o. SH. Chiranjilal Suttarkhanna Mohalla, Nasirbad, Nasirabad, Rajasthan 601.	...Respondents

Mr. Shrikant Madhukar Dange, Advocate for the Appellant.

Ms. Ketki Gokhale i/b. Mr. A. M. Gokhale, Advocate for Respondent
Nos.1 to 3/claimants.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th FEBRUARY, 2024.

Oral Judgment :

1. The issue involved in this appeal is income of the deceased is considered on higher side and awarding of future prospects.

2. It is contention of learned counsel for the appellant – Insurance Company that the Tribunal has considered monthly income of the deceased at Rs.7000/- per month without any evidence on record, which is on higher side. Learned counsel further submitted that the Tribunal should not have awarded future prospects as notional monthly income of the deceased is considered. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondents/ claimants that deceased was doing business of xerox and stationery and he owned agricultural land. From both sources, he used to earn Rs.30,000/- per month but the Tribunal has considered Rs.7000/- as monthly income of the deceased, which is proper. The Tribunal has considered all the aspects while passing judgment and order. No interference is required in it.

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

5. To prove the income of the deceased, the claimants examined claimant No.1-Pooja Gondhale. She has stated that her husband was running shop of xerox and stationery at Hadapsar and he was getting

income from agricultural land, he was earning around Rs.30,000/- per month. The certified copy of shop license at Exhibit-40. Considering the evidence on record, the Tribunal has considered monthly income of deceased at Rs.7,000/- per month. I do not find infirmity in it as the deceased was maintaining family of four persons.

In respect of issue of awarding future prospects, as per the view of Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi , 2017 ACJ 2700(SC) .** self employed person is entitled for future prospects. Hence, I do not see merit in the contention that claimants are not entitled for future prospects.

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

ORDER

1. The appeal is dismissed. No order as to cost.
 2. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 3. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)