

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

FIRST APPEAL NO.1099 OF 2005

- | | |
|--|---|
| 1. Smt.Sharda Ananda Pawar | } |
| Age-33 years, Occ : Housewife | } |
| Widow of the deceased | } |
| 2. Kumar. Laxman Ananda Pawar | } |
| Aeg-8 years, Minor Son of the deceased | } |
| 3. Kumar Sagar Ananda Pawar | } |
| Age-5 years, Minor Son of the deceased | } |
| 4. Kumar.Shailesh Ananda Pawar | } |
| Age-2 years, Minor Son of the deceased | } |
| 5. Smt.Dwarkabai Ganpati Pawar | } |
| Age-65 years, Occupation : Housewife | } |
| Mother of deceased. | } |
| All R/at Gati Transport, Indrayani | } |
| Building, Plot No...., Shiravane Gaon, | } |
| New Mumbai, Dist-Thane (Appellant | } |
| Nos.2 to 4 are minors through their next | } |
| friend and natural guardian Sharda | } |
| Ananda Pawar | } |

....Appellants
(Original
Applicants)

Versus

- | | |
|---|---|
| 1. Shri.Anand Raghunath Pangarkar | } |
| Gautam Nagar Rahiwasi Sangh | } |
| Room No.40, Match Factory Lane, Kurla | } |
| (W), Mumbai-400 070. | } |
| (Owner of Motor Tempo No.MH-04-F- | } |
| 4574) | } |
| 2. The United India Insurance Co. Ltd. | } |
| Thane Divisional Office, Shelar Building, | } |

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Gokhale Road, Naupada, Thane (Owner }**Respondents**
of Motor Tempo No.MH-04-F-4574) } (Original
Opponents)

Mr.T.J. Mendon for the Appellant.
Smt.Urmila Sanil, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th JANUARY 2024

ORAL JUDGMENT :-

. By way of this Appeal, the Claimants are seeking enhancement of compensation.

2. It is contention of the learned counsel for the Appellant's-Claimant's that, the Tribunal has not awarded future prospects, multiplier is wrongly applied and the 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 awarding compensation, the Tribunal has considered all the aspects and on that basis judgment and award is passed. Hence, no interference is required in it.

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

5. While awarding compensation the Tribunal has observed that, the deceased was Mathadi worker. The Tribunal has considered monthly income of the deceased at Rs.10,345/- after deducting tax, but 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 50% future prospects. While awarding compensation, the Tribunal has applied multiplier of 9. At the time of the accident deceased was 35 years old, the proper multiplier is 16. Hence, I Am considering this multiplier. The Tribunal has deducted 1/3rd amount for personal expenses. There are five Claimant's, it should be 1/4th. The Tribunal has awarded consortium on lower side. 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

1 2017 ACJ 2700 (SC)

2 2018 ACJ 2782 (SC)

amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. Considering these calculation's the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Income	Rs.10,145.00
(+) Future Prospects (50%)	Rs.5,072.50

	Rs.15,217.00
(-) Personal Expenses 1/4th	(-) Rs.3,804.00

	Rs.11413.00
Rs.11,413/- X 12 X 16 (Multiplier)	Rs.21,91,392.00
Consortium (Rs.48,000 x 5)	(+) Rs.2,40,000.00
Loss of Estate	(+) Rs.18,000.00
Funeral Expenses	(+) Rs.18,000.00
Total Just Compensation Payable	Rs.24,67,392.00
Compensation awarded by Tribunal	(-)Rs.6,13,000.00
Enhanced Compensation	Rs.18,54,392.00

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

ORDER

(i) The Appeal is partly allowed.

(ii) The Claimants are entitled for enhanced amount of Rs.18,54,392/- @ 7.5% per annum from

the date of the filing of Claim Petition till realization of the amount.

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

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

(v) The statutory amount be transferred to the Tribunal. Parties are at liberty to withdraw it.

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

(SHIVKUMAR DIGE, J.)