

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

FIRST APPEAL NO. 1150 OF 2019

1. Shri.Ramkrit Badrinath Varma	}	
Aged-50 years,	}	
2. Smt.Ritadevi Ramkrit Varma	}	
Aged-47 years.	}	
3. Kumar Roshal Ramkrit Varma	}	
Aged-29 years.	}	
R/o 4 Krupal Chawl, Utkarsh Nagar,	}	
Near Yashwant Chandaji Vidya Mandir	}	
School, Bhandup (W), Mumbai -400 078	}	...Appellants

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Versus

1. Shri.Sagar B. Itankar	}	
At Gauri, Taluka-Rajura	}	
District-Chandrapur.	}	
2. Universal Sompo Gen. Ins. Co. Ltd.	}	
Plot No.E2-94, T.T.C., Industrial Area,	}	
MIDC, Mahape, New Mumbai	}	...Respondents

Mr.T.J. Mendon, for the Appellants.

Mr.Nikhil Mehta i/b KMC Legal Venture, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 31st JANUARY 2024

ORAL JUDGMENT :-

. The issue involved in this Appeal is income of the

deceased is considered on lower side.

2. It is contention of the learned counsel for the Appellant-Claimant that, the deceased was Second Year BE Mechanical Engineering student. The Tribunal has considered monthly income of deceased at Rs.3,000/- per month, which is on lower side, it should be Rs.15,000/- per month. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for Respondent No.2-Insurance Company that, the Tribunal has considered proper income of the deceased. The learned counsel further submitted that the Tribunal has deducted 1/3rd amount for personal expenses. The deceased was Bachelor it should be 1/2. 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), Mumbai.

5. To prove the income of the deceased the Claimant's have examined the Claimant No.1 Ramkrit Verma, he has stated that, deceased was 2nd year BE Mechanical Engineering student of

Ballarpur Institute of Technology, District-Chandrapur. Considering education of the deceased the Tribunal has considered monthly income of deceased at Rs.3,000/- per month. In my view, it is on lower side. The date of the accident is 15th February 2011. The deceased was studying in 2nd year BE Mechanical Engineering. Consider this fact, I am considering monthly income of deceased at Rs.10,000/- per month. The Tribunal has deducted 1/3 amount for personal expenses, it should be ½ as the deceased was bachlor. The Tribunal has not awarded consortium amount. As per view of Hon'ble Apex Court in case of *Magma General Insurance Co. Ltd. V/s. Nanu Ram¹*, each claimant is entitled for Rs.48,000/- as consortium amount. There are three Claimants it comes to Rs.1,44,000/-.

6. Considering the above calculation the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Income	Rs.10,000.00
(+) Future Prospects (40% - Age 18 Yrs)	Rs.4,000.00
Dependency ½	Rs.7,000.00

1 2018 ACJ 2782 (SC)

Multiplier for Age 18 is 18	Rs.15,12,000.00
Rs.7,000 x 12 x 18	
(+) Consortium for Three Claimants	Rs.1,44,000.00
Total Income	Rs.16,56,000.00
Tribunal Awarded	Rs.4,32,000.00
Enhanced Compensation	Rs.12,24,000.00

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimants are entitled for enhanced amount of Rs.12,24,000/- @ 7.5% per annum from the date of the filing of Claim Petition till realization of the amount. Out of this amount Rs.1,44,000/- is consortium amount, the Claimant's are entitled for 7.5% per annum from 1st November 2017 till realization of the amount.

(iii) The Respondent-Insurance Company shall deposit the enhanced amount alongwith accrued interest thereon within six weeks after receipt of the order.

(iv) The Claimant's are permitted to withdraw deposited amount along with accrued interest thereon.

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

(SHIVKUMAR DIGE, J.)