

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

FIRST APPEAL NO.641 OF 2017

**NILAM
SANTOSH
KAMBLE**

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Date: 2024.04.16
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1. Smt.Rupali Satish Shinde	}	
Age-31 years, Occupation : Housewife	}	
	}	
2. Kum.Komal Satish Shinde	}	
Age-14 years, Occupation : Education	}	
	}	
3. Kum. Aishwarya Satish Shinde	}	
Age-11 years, Occupation : Education	}	
Appellant Nos.2 and 3 as a minor, Thr.	}	
Their mother natural Guardian-Appellant	}	
No.1	}	
	}	
All R/at Flat No.18, Goreram Co. Op. Hsg.	}	(Org.
Soc., Goreram Lane, Nashik, District-	}	Applicants)
Nashik.	}	...Appellants

Versus

1. Shri.Sandip Shridhar Dhakane	}	
Age-42 years, Occupation : Motor Owner	}	
R/at Pannal Sathe, Post-Rajpur,	}	
Taluka-Yeola, District-Nashik-422001	}	
2. The Manger,	}	
United India Insurance Co. Ltd.,	}	(Org.
Yashodhan Compex, Opposite Science	}	Respondents)
College, Satara.	}	...Respondents

Mr.Sharad T. Bhosale i/b Mr.Dilip Bodake, for the Appellants.
Mr.Ketan Joshi, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st MARCH 2024

ORAL JUDGMENT :-

. By way of this Appeal the Claimant's are seeking enhancement of the compensation.

2. It is contention of the learned counsel for the Appellant-Claimant that, due to accident deceased Sumeet aged six years is died. While awarding compensation the Tribunal has awarded Rs.55,000/- as lump-sum compensation, which is erroneous. The learned counsel further submitted that the Tribunal should have considered notional income of the deceased, future prospects. Hence, requested to allow the Appeal. He relied on *Meena Devi V/s. Nanu Chand Mahto Alias Nemchand Mahto & Ors.*¹.

3. It is contention of the learned counsel for the Respondent-Insurance Company that while passing order the

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Tribunal has considered all the aspects on that basis judgment and order is passed. No interference is required in it. 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), Satara.

5. While passing the order the Tribunal has observed that deceased was 6 years old, on that basis the Tribunal has awarded lump-sum compensation of Rs.55,000/-. I am unable to understand the observations of the Tribunal as Tribunal has not properly calculated the compensation. As per view of the Hon'ble Apex Court in the case of *Meena Devi (Supra)*, the Claimant's are entitled for compensation of Rs.5 lakhs. The ratio laid down by the Hon'ble Apex Court in the above case is squarely applicable in the present case. The Tribunal has awarded Rs.55,000/-, if it deducts from Rs.5 lakhs it comes to Rs.4,45,000/-. The Claimant's are entitled for this amount and I pass following order.

ORDER

- (i) The Appeal is allowed.
- (ii) The Claimant's are entitled for compensation of Rs.4,45,000/- @ 7.5% interest per annum from the date of filing of the Claim Petition till realization of the amount.
- (iii) The Respondent-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within 8 weeks after receipt of this order.
- (iv) The Claimant is permitted to withdraw the deposited amount alongwith interest.
- (v) The Claimant shall pay Deficit Court Fees, if any, on enhanced amount as per Rule.
- (vi) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)