

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

SATISH
RAMCHANDRA
SANGAR

Digitally signed by
SATISH RAMCHANDRA
SANGAR

Date: 2024.09.10
18:29:55 +0530

**INTERIM APPLICATION NO.11464 OF 2024
[FOR WITHDRAWAL OF AMOUNT]
IN
FIRST APPEAL NO.995 OF 2022**

1. **Deepali Sachin Chavan**
Age : 35 Years, Occupation : Housewife,
2. **Sumeet Sachin Chavan**
Age : 21 Years, Occupation : Education,
3. **Rajratna Sachin Chavan**
Age : 19 Years, Occupation : Education,
4. **Mahadev Kisan Chavan**
Age : 64 Years, Occupation : Nil,
5. **Ratan Mahadev Chavan**
Age : 59 Years, Occupation : Housewife,

All Residing at : Boribel, Taluka : Daund,
District : Pune.

**...Applicants
(Original Claimants)**

In the matter between:-

New India Assurance Company Limited
Bhigwan Chowk, Baramati, Taluka : Baramati,
District : Pune.

...Appellant

Verses

Deepali Sachin Chavan and Ors.

...Respondents

Mr.Rupesh A. Zade:-	Advocate for Applicants.
Ms.Poonam Mital:-	Advocate for Appellant Insurance Company.

CORAM : S. M. MODAK, J.

DATE : 27th AUGUST 2024P. C. :-

1. Even though, there is an Application for withdrawal on behalf of the Claimants, considering the narrow issue involved, Appeal is taken up for final hearing.

2. Admit.

3. Appeal is at the instance of the Appellant Insurance Company. The only issue raised is, about the quantum of compensation. The Motor Accident Claims Tribunal–Baramati (**“Claims Tribunal–Baramati**) has awarded compensation of Rs.31,79,000/- (Rupees Thirty One Lakh Seventy Nine Thousand). The liability is saddled on the Opponent No.1A to 1B i.e. the owners of the offending vehicle and Respondent No.2–Insurance Company. The Appeal is by the Insurance Company.

4. In para No.21, the computation is given. The only issue is, about the computation towards the loss of consortium and love and affection.

The Applicant No.1 is the wife, the Applicant Nos.2 and 3 are the minor children and the Applicant Nos.4 and 5 are the parents. They have been granted compensation for loss of consortium. The parents

were given Rs.50,000/- each (Rupees Fifty Thousand Only). Whereas, other Claimants are given Rs.1,00,000/- (Rupees One Lakh) each. As per the observation in the cases of *National Insurance Company Ltd. v/s. Pranay Sethi*¹ and *Magma General Insurance Company Limited v/s. Nanu Ram and Others*², the compensation towards the “Loss of Consortium” is Rs.48,000/- (Rupees Forty Eight Thousand Only) per person. So, the amount has to be reduced and the “Funeral Expenses” should be Rs.18,000/- (Rupees Eighty Thousand Only) instead of Rs.25,000/- (Rupees Twenty Five Thousand Only). There has to be compensation for “Loss of Estate”. It should be Rs.18,000/- (Rupees Eighty Thousand Only). So, the modified amount of compensation is as follows:-

<u>Sr.No.</u>	<u>Heads</u>	<u>Compensation Awarded</u>
(i)	Loss of Dependency:-	Rs.27,54,000/-
(ii)	Loss of Consortium for Applicant No.1:-	Rs.48,000/-
(iii)	Loss of Consortium for Applicant Nos.2 & 3 (Rs.48,000/- each)	Rs.96,000/-
(iv)	Loss of Consortium for Applicant Nos.4 & 5 (Rs.48,000/- each)	Rs.96,000/-

1 (2017) 16 SCC 680

2 2018 ACJ 2782 Supreme Court

(v)	Funeral Expenses:-	Rs.18,000/-³
(vi)	Loss of Estate:-	Rs.18,000/-⁴
	Total Compensation Awarded:-	Rs.30,30,000/- plus interest⁵

5. The Appellant Insurance Company is entitled to the refund of excess amount. Hence, order:-

ORDER

- (i) The Appeal is partly allowed.
- (ii) The Respondent Nos.1A and 1B and the Appellant Insurance Company are jointly and severally liable to pay compensation of Rs.30,30,000/- (Rupees Thirty Lakh Thirty Thousand Only) inclusive of “No Fault Liability” at the rate of 9% from the filing of Application till deposit of the amount.
- (iii) The Claims Tribunal – Baramati should apportion the amount in the following manner:-
 - (a) Respondent No.1 (Original Claimant No.1)–Deepali Sachin Chavan to get Rs.10,30,000/- along with interest.
 - (b) Respondent No.2 – Sumit Sachin Chavan and Respondent No.3 – Rajratna Sachin Chavan (Original Claimant Nos.2 and 3) to get Rs.7,00,000/- (Rupees Seven Lakh) each along with interest.
 - (c) Respondent No.4 – Mahadev Kisan Chavan and Respondent

³ Modified instead of Rs.25,000/-

⁴ This Head is added in addition to the actual compensation

⁵ Amount is reduced from actual total compensation of Rs.31,79,000/-

No.5 – Ratan Mahadev Chavan (Original Claimant Nos.4 and 5) to get Rs.3,00,000/- (Rupees Three Lakh) each along with interest.

- (d) The Appellant Insurance Company is entitled to refund of excess amount of Rs.1,49,000/- (Rupees One Lakh Forty Nine Thousand Only) along with interest from the date of deposit till getting the amount.
- (e) The amount of statutory deposit be transferred to the Claims Tribunal – Baramati.

6. In view of the above, the **Interim Application as well as Appeal are disposed of.**

[S. M. MODAK, J.]