IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

FIRST APPEAL NO.331 OF 2014

Appellants : (Ori. Petitioner No.1 on R.A.) : **1)** Smt. Ushatai Balkrishna Gawali,
Aged 52 Yrs. Occ : Household Work.

(Ori. Petitioner No.2 on R.A.) **2)** Ku. Pallavi Balkrishna Gawali,
Aged about 25 Yrs. Occ : Nil.

(Ori. Petitioner No.3 on R.A.) **3)** Ku. Priti Balkrishna Gawali,
Aged about 23 Yrs. Occ : Nil.
All above appellants Nos.1 to 3 R/o Shankar Nagar,
Amravati, Tq. and Distt. Amravati.

(Ori. Petitioner No.4 on R.A.) **4)** Sau. Rushali Umesh Raut,
Aged about 29 Yrs. Occ : Household Work,
R/o Shirbhate Nagar, Kandli Road, Paratwada,
Tq. Achalpur, Distt. Amravati.

– Versus –

Respondents : (Ori.Respondent No.1 on R.A.) : **1)** Mohd. Afzal Mohd. Jabir,
Aged about 49 Yrs., Occ : Driver,
R/o Riddhapur, Tq. Morshi, Distt. Amravati.

(Ori.Respondent No.2 on R.A.) **2)** Sadique Ali s/o Jafar Ali,
Aged – Major (not known), Occ : Owner of Truck,
R/o Riddhapur, Tq. Morshi, Distt. Amravati.

(Ori.Respondent No.3 on R.A.) **3)** The Oriental Insurance Co. Ltd.
through it's Divisional Manager, Badnera Road,
Rajapeth, Amravati, Tq. and Distt. Amravati.

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Ms. Shreya Bhagat h/f Mr. P.R. Agrawal, Advocate for the Appellants.
Mrs. Anita Mategaonkar, Advocate for Respondent No.3.
None for Respondent Nos.1 and 2.
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CORAM : M.W. CHANDWANI, J.
DATE : 23rd SEPTEMBER, 2024.

ORAL JUDGMENT :

With the consent of learned Counsels for the parties, the appeal is taken up for final hearing.

02. **Admit**.

03. Correctness of the award dated 14/06/2013 passed by the Motor Accident Claims Tribunal, Amravati *(hereinafter referred to as "Tribunal" for short)* in Claim Petition No.594/2008 is questioned in this appeal, whereby, the Tribunal has granted compensation of Rs.2,74,500/- inclusive of 'no fault liability' along with interest at the rate of 7% per annum to the appellants, on account of death of deceased Balkrushna @ Balasaheb Namdeorao Gawali in a vehicular accident that occurred on 23/06/2008.

04. The appeal has been filed mainly on the ground that the Tribunal has not granted future prospects on the assessed income of the deceased as well as compensation towards spousal consortium and parental consortium to the wife and children of the deceased, respectively. Needless to mention, according to the decision of the Supreme Court in ***National Insurance Company Limited vs. Pranay Sethi and others – (2017) 16 SCC 680,*** future prospects on the assessed income of the deceased is to be added in the compensation as well the spousal consortium shall have to be granted to the life partner of the deceased. In the subsequent decision of the Supreme Court in ***Magma General lnsurance Co. Ltd. vs. Nanu Ram – (2018) 18 SCC 130,*** it

has been further held that the children are also entitled for parental consortium at the rate of Rs.40,000/- each. That apart, the appellants are also entitled towards loss of estate and funeral expenses at Rs.15,000/- each in view of the above settled position. Since, the deceased was 58 years old at the time of his accidental death, as per the decision in ***Pranay Sethi*** *(supra)* the appellants are entitled to future prospects at the rate of 15% of the assessed income of the deceased. Therefore, I do not find force in the argument of the learned Counsel for the appellants that the Tribunal has not granted the compensation properly.

05] In view of the above, the award needs to be modified accordingly. Hence, the appellants are entitled to the following compensation:

1.	Monthly Income of the Deceased	Rs.	3,000/-
2.	Annual income of the deceased (Rs.3,000/- x 12)	Rs.	36,000/-
3.	**Less** – 1/4th deduction as per the judgment of Sarla Verma vs. Delhi Transport Corporation – (2009) 6 SCC 121 (Rs.36,000 – Rs.9,000)	(-) Rs.	27,000/-
4.	**Add** – 15% future prospects as per the judgment of National Insurance Co. Ltd. vs. Pranay Sethi (2017) 16 SCC 680	(+) Rs.	4,050/-
5.	Salary for multiplier	Rs.	31,050/-
6.	**Multiplier** of 9 as per the judgment of Sarla Verma vs. Delhi Transport Corporation – (2009) 6 SCC 121, applicable for the age group of 55 to 60 (Rs.31,050 x 9) (Loss of Dependency)	(x) Rs.	2,79,450/-

7.	**Add** : Loss of Consortium : Rs.40,000/- for each claimant as per the judgment of Magma General Insurance Co. Ltd. vs. Nanu Ram (2018) 18 SCC 130 followed in United India Insurance Co. Ltd. vs. Satinder Kaur – AIR 2020 (SC) 3076 - (Rs.40,000/- x 4)	(+) Rs.	1,60,000/-
8.	**Add** : Loss of Estate	(+) Rs.	15,000/-
9.	**Add** : Funeral Expenses	(+) Rs.	15,000/-
10.	Total compensation payable to the claimants (Rs.2,79,450/- + Rs.1,60,000/- + Rs.15,000/- + Rs.15,000/-)	Rs.	4,69,450/-

06. Resultantly, the appeal is partly allowed. Respondent No.3-Insurance Company is directed to deposit the enhanced compensation along with interest at the rate of 7% per annum accrued thereon from the date of claim petition till realization of the amount with the Tribunal within a period of six weeks from today.

07. Decree be drawn up accordingly. There shall be no order as to costs.

(M.W. CHANDWANI, J.)

**sandesh*

Signed by: Mr. Sandesh Waghmare
Designation: PS To Honourable Judge
Date: 26/09/2024 15:27:05