IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 FIRST APPEAL NO. 3167 OF 2021

1. Gangasagar Rajesh Kamthekar
Age: 36 yrs., Occu.: Housewife.

2. Sneha d/o. Rajesh Kamthekar
Age: 15 years, Occu.: Education,
Minor U/g. of Appellant No.1.

3. Shreyash s/o Rajesh Kamthekar
Age: 10 yrs., Occu.: Education,
Minor U/g. of Appellant No.1.

4. Kamal s/o Vyankatrao Kamthekar
Age: 63 yrs., Occu.: Housewife.

5. Vyankatrao s/o Namdeorao Kamthekar
Age: 71 yrs., Occu.: Pensioner,
All R/o. Kamtha (KH.),
Tq. & Dist.Nanded. ….Appellant
(Ori. Claimants)

Versus

1. Vishwanath s/o Ravi Sontakke
Age: Major, Occu.: Business,
(Owner of TIPPAR Bearing
Registration No.MH-04 CP-6164)
R/o. Bramhanwada, Near Matasahib
Gurudwara, Nanded.
Tq. and Dist.Nanded.

2. Shriram General Insurance Company Ltd.
Through It’s Manager,
Office at L-8, RIICO Industrial Area,
Sitapura, Jaipur, Rajastan – 302022.
Through It’s Sister Branch,
Through It’s Manager,
Office of Chetan Trade Center Office
No.109-110, First Floor, Opposite SFS

School, Akashwani Jalna Road,
Aurangabad. .....Respondents

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Advocate for Appellants : Mr.Vaibhav B. Dhage
Advocate for Respondent no.1 : Mr. Shivsamb N. Janakwade
Advocate for Respondent no.2 : Mr.Swapnil S. Rathi

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 12 SEPTEMBER, 2025
PRONOUNCED ON : 24 SEPTEMBER, 2025

JUDGMENT :-

1. Feeling aggrieved by the grant of insufficient compensation, instant appeal is by original claimants thereby challenging the judgment and order passed by the learned District Judge-3 & Ex-Officio Member of MACT, Nanded, in Motor Accident Claim Petition No.497 of 2017.

2. Facts giving rise to claim petition are that deceased Rajesh (husband of appellant no.1) was proceeding on his two wheeler. He was given dash by vehicle owned by respondent no.1 and insured by respondent no.2. While undergoing treatment, decease succumbed to the fatal injuries. Therefore, crime No.207 of 2017 was registered against respondent no.1 under Sections 279, 337, 338, 304-A of the Indian Penal Code (IPC) and under Section 134 (A)(B) of the Motor

Vehicles Act.

Case set up by claimants in accident claim petition was that, there was rash and negligence driving on the part of driver of the offending vehicle owned respondent no.1, which was insured by respondent no.2 and as such they sought claim against both respondents jointly and severely.

On appreciating oral and documentary evidence, learned Tribunal vide its judgment and order dated 23-05-2019, partly allowed the claim petition.

Feeling aggrieved by the quantum of the compensation, original claimants have preferred instant appeal.

3. Heard both sides. It appears that the appellants/claimants are aggrieved by non-consideration of their proposed claim and failure to consider grant of future prospects as per settled law and consortium to each of the claimants, which according to learned counsel, they are entitled to in view of recent law laid down by the Hon'ble Supreme Court in the cases of ***National Insurance Company Limited v. Pranay Sethi and others, 2017 (16) SCC 680*** and ***Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram and Others, (2018) 18 SCC 130.***

4. Learned counsel for respondent nos.1 and 2 have supported the judgment, however, learned counsel for respondent no.2 conceded that learned Tribunal had granted consortium only to appellant no.1, instead of granting to each of the claimants.

5. After going through the record and on hearing each of the sides, there does not appear to be serious challenge or dispute regarding accidental death of Rajesh while he was proceeding on his two wheeler on account of dash given by vehicle owned by respondent no.1 and insured by respondent no.2. The only ground for challenge is non-consideration of future prospects and consortium to each of the claimants. Such claim has also been not denied by learned counsel by respondent no.2/Insurance Company. Therefore, on such limited ground, impugned order is visited and re-appreciated.

6. On doing so, it does emerge that in paragraph nos. 15 and 16, learned Tribunal has observed that in view of evidence of CW2 Govind Nandkumar Bidwai at exh.54, per annum income of Rajesh is considered Rs.3,00,000/- i.e. Rs.25,000 per month. In the light of

evidence of CW2 Govind Nandkumar Bidwai and papers like Income Tax Returns, above quantification cannot be faulted at. Even deduction towards personal expenses has been considered and dealt by learned Tribunal in paragraph no.18. However, as pointed out, towards consortium, learned Tribunal has granted only Rs.40,000/-. Infact in view of ***Pranay Sethi and others*** (supra) and ***Magma General Insurance Co. Ltd.*** (supra), each of the claimants i.e. children and parents also are entitled to receive amount under the head of Consortium @ Rs.40,000/- each. As per the setllted law, the claimants are also entitled for 10% increase in the consortium amount for a span of every three years from the date of the judgment of the learned Tribunal.

7. Even from the impugned judgment, it is emerging that, learned Tribunal has not considered entitlement of the claimants for future prospects. In the fitness of things, considering the proved income and age of the deceased at the time of accident, 25% of the existing income needs to be awarded towards future prospects. After considering the amount towards future prospects and consortium to each of the claimants, the details of the amount of compensation to be paid to the claimants are as under :

Sr. No.	Heads (Rs.)	Amount (Rs.)
1	Annual Income (i.e. 25,000 p.m. x 12) = 3,00,000	
2	Add Future Prospects (25% of income) i.e. 75,000 = 3,00,000 + 75,000	3,75,000
3	Less ¼ deduction towards personal expenses (3,75,000 – 93,750)	2,81,250
4	Multiplier of 14 (2,81,250 x 14)	39,37,500
5	Non-pecuniary Losses : Loss of consortium (40,000 x 5) = 2,00,000 Amount already considered by the Tribunal towards consortium = 40,000. Therefore, addition of 10% increase for a span of every three years is only on 1,60,000. i.e. 20% of 160,000 = 32,000 Loss of Estate = 15,000 Funeral Expenses = 15,000	2,62,000
6	Medical and hospital bills	4,40,736
7	Total Compensation to be paid	46,40,236
8	Less – Compensation awarded by Tribunal	36,60,736
9	**Total enhanced amount of compensation**	**9,79,500**

8. Therefore, after considering the amount of future prospects and consortium, the claimants are entitled for enhanced compensation of Rs.9,79,500/-. Accordingly, following order is passed :

ORDER

(i) First Appeal is partly allowed.

(ii) Impugned judgment and award dated 23-05-2019 passed by the learned District Judge-3 and Ex-Officio Member of MACT, Nanded, in M.A.C.P. No.497 of 2017 is modified.

(iii) Respondent no.2/Insurance Company to pay enhanced compensation amount of **Rs.9,79,500/-** to appellants – claimants within 12 weeks from today along with interest @ 9% per annum from the date of registration of claim petition till its realization.

(iv) Out of enhanced compensation amount of Rs.9,79,500/-, an amount of Rs.2,25,000/- be paid to claimant no.1 and Rs.1,50,000/- each be paid to claimant nos.4 and 5 by crossed account payee cheques in their names and remaining amount of Rs.4,54,500/- be distributed equally amongst claimant nos.2 and 3 and the amount of claimant no.3 i.e. Rs.2,27,250/- shall be kept in fixed deposit in his name in any Nationalized Bank till he attains majority.

(v) Rest of the award of the learned Tribunal is maintained.

(vi) Modified award be prepared accordingly.

(vii) Claimants to pay court fees on enhanced compensation as per Rules.

(viii) On deposit of the amount by respondent no.2/ Insurance Company, appellants – claimants are permitted to withdraw the same.

(ABHAY S. WAGHWASE)
JUDGE

SPT