



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 411 OF 2021

1. Parvati W/o Kailas Kadam
Age: 38 years, Occu.: Household,
R/o. Dharmपुरी, Tq. And Dist.Parbhani.
2. Durga D/o Kailas Kadam
Now married known as Durga W/o. Anil Vaidhya
Age : 22 years, Occu.: Household,
R/o. Vadgaon (Vaidhya), Tq.Mantha, Dist.Jalna.
3. Priyanka D/o Kailas Kadam
Now married known as Priyanka W/o. Umesh Jagtap
Age: 19 years, Occu.: Education,
R/o. Sawargaon, Tq.Majalgaon, Dist.Beed.
4. Narsing S/o. Kailas Kadam
Age: 16 years, Occu.: Education,
Under Guardian of mother Appellant No.1
5. Munjaji S/o Shriram Kadam
Age: 73 years, Occu.: Nil,
R/o. Dharmपुरी, Tq. And Dist.Parbhani.
6. Sumanbai W/o. Munjaji Kadam
Age: 71 years, Occu.: Household,
R/o. Dharmपुरी, Tq. And Dist.Parbhani. ..Appellants
(Orig. Claimants)

Versus

1. Shivaji S/o Wamanrao Tope
Age: 56 years, Occu.: Business,
R/o. Panchshil Nagar,
Tq.Parbhani, Dist.Parbhani.
2. The Oriental Insurance Co. Ltd.,
Branch at “Yashodhan” Shivaji Road,
Parbhani, Tq. and Dist.Parbhani. ..Respondents

.....
Advocate for Appellants : Mr. Mahesh P. Kale
Advocate for Respondent no.2 : Mr. Suraj R. Bagal
.....

CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 30 SEPTEMBER, 2025
PRONOUNCED ON : 09 OCTOBER, 2025**

JUDGMENT :-

1. Appellants/original claimants in Motor Accident Claim Petition No.420 of 2015 are dissatisfied with quantum of compensation granted by the learned Member, Motor Accident Claims Tribunal, Parbhani vide judgment and award dated 21-09-2020.

2. Learned counsel for the appellants/claimants pointed out that there is very short issue in the present appeal. That, appellants/claimants herein had set up above referred accident claim for grant of compensation on account of accidental death of Kailas Munjaji Kadam in road traffic accident dated 24-11-2014. Learned counsel pointed out that deceased was 35 years of age and was earning agricultural income at the time of incident. That, learned Tribunal considered notional income as Rs.6,000/- per month and there is no dispute to that extent. However, appellants/claimants are

aggrieved because of non-consideration of addition of future prospects and consortium to each of the dependents and according to him, appellants/claimants are seeking the same in this instant appeal. In support of his submissions, learned counsel relied on the judgments of the Hon'ble Apex 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,***

3. Learned counsel for respondent no.2/Insurance Company fairly submitted that learned Tribunal failed to grant amount towards future prospects.

4. Perused the record. In the instant case, computations and calculations made by the learned Tribunal are reflected in paragraph no.14 of the impugned judgment. It is noticed that, no amount has been awarded under the head of future prospects. It is also noticed that, only Rs.70,000/- has been awarded towards consortium and funeral expenses. This clearly shows that learned Tribunal has granted only Rs.40,000/- towards consortium. Considering the age of the deceased, this Court is of the view that the

appellants/claimants are entitled for addition of 40% amount in the income of deceased towards future prospects. Apart from that, in view of law laid down by the Hon'ble Supreme Court in the cases of *National Insurance Company Limited* (Supra) and *Magma General Insurance Co. Ltd.* (Supra), the appellants/claimants are entitled for Rs.40,000/- each towards consortium. After considering the future prospects and consortium to each of the claimants, the calculation of the compensation would be as under :

Sr. No.	Heads (Rs.)	Amount (Rs.)
1	Annual Income (i.e. 6,000 p.m. x 12) = 72,000	
2	Add Future Prospects (40% of income) i.e. 28,800 = 72,000 + 28,800	1,00,800
3	Less $\frac{1}{4}$ deduction towards personal expenses (1,00,800 – 25,200)	75,600
4	Multiplier of 16 (75,600 x 16)	12,09,600
5	Non-pecuniary Losses : Loss of consortium (40,000 x 6) = Rs.2,40,000 - 40,000 (amount already considered by Tribunal) = Rs.2,00,000 Therefore, Addition of 10% increase for a span of every three years is only on 2,00,000. i.e. 10% of 2,00,000 = 20,000 Amount already considered by the Tribunal towards Consortium for one person + Loss of Estate + Funeral Expenses : Rs.40,000 + 15,000 + 15,000 = 70,000 + 7,000 (10% increase) = Rs.77,000	2,97,000
7	Total Compensation to be paid	15,06,600
8	Less – Compensation as per Tribunal	9,41,000
9	Total enhanced amount of compensation	5,65,600

5. Therefore, this Court is of the view that the appellants/claimants are entitled for enhanced compensation of Rs.5,65,600/-. Accordingly, the appeal deserves to be partly allowed. Hence, following order :

ORDER

- (i) First Appeal is partly allowed with proportionate costs.
- (ii) Impugned judgment and award dated 21-09-2020 passed by the learned Member, Motor Accident Claims Tribunal, Parbhani, in M.A.C.P. No.420 of 2015 is modified.
- (iii) Respondent no.2/Insurance Company to pay enhanced compensation amount of Rs.5,65,600/- to appellants – claimants within 12 weeks from today along with interest @ 7% per annum from the date of registration of claim petition till its realization.
- (iv) The enhanced amount of compensation be distributed/paid to the appellants/claimants as per apportionment indicated by the learned Tribunal in its Judgment and award.
- (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