



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

FIRST APPEAL NO. 2464 OF 2023

1. Smt. Vaishali Dattatraya Khandve,
Age: 40 years, Occu: Household,
2. Tejas Dattatraya Khandve,
Age: 20 years, Occu: Education
3. Kanchan Dattatraya Khandve,
Age: 19 years, Occu: Education
4. Aishwarya Dattatraya Khandve,
Age: 16 years, Occu: Education
5. Aditya Dattatraya Khandve,
Age: 14 years, Occu: Education,
(Appellant no.4 and 5 being minor. Through their
natural guardian/mother i.e. appellant no.1)
6. Manaothar Shridhar Khandve,
Age: 70 years, Occu: Nil,
7. Sou. Parigabai Manohar Khandve,
Age: 63 years, Occu: Household,
All R/o Sandve, Tq. Nagar,
Dist. Ahmednagar.

.....APPELLANTS
(Orig. Claimants)

VERSUS

1. M/s. SDH Logistics,
Prop. Manjeetsing
R/o. Saraya Ka Rasta,
Behind Prince Vatika, Opposite
Sector-5, Near Petrol pump,
Mata Mandir Road, Gurgaon- 122 001.
Haryana State.
2. ICICI Lombard General Insurance
Company Ltd., Zenith House, Keshavrao Khade Marg,
Mahalaxmi, Mumbai-400 034

Through its branch Manager,
Opp. Hotel Oberai, Nagar-Manmad Road,
Ahmednagar

.....**RESPONDENTS**
(Orig. opponents)

Mr. U. U. Wagh, Advocate for Appellants
Mr. A. G. Choudhari, Advocate for Respondent No.2

CORAM : ROHIT W. JOSHI, J.

Dated : 13TH MARCH, 2025

ORAL JUDGMENT :-

. The present First appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 by the original claim petitioners seeking enhancement of compensation.

2. One Dattatraya Manohar Khandve died in a road accident on 17.02.2012. The respondent No.1 is owner of the offending vehicle, which was insured with the respondent No.2 on the date of accident. The claim petitioners are widow, children and parents of deceased Dattatrya.

3. The learned Tribunal has computed the compensation taking the income of the deceased at Rs.10,000/- per month, about which, no grievance raised by the appellants. Likewise, there is no grievance with respect to the percentage of deduction of 20 percent towards personal expenses and the

multiplier of 15 which adopted by the learned Tribunal.

4. The appellants/claim petitioners submit that the learned Tribunal has otherwise correctly computed the compensation payable towards the head of loss of financial dependence except for failure in taking into consideration the head of future prospects, they claim enhancement in the amount of compensation in that regard.

5. Apart from this, it is pointed out that a sum of Rs.40,000/- ought to have been awarded to each of the dependents of the deceased as per judgment of the Hon'ble Supreme Court in the matter of *Magma General Insurance Company Limited Versus Nanu Ram Alias Chuhru Ram & Ors. (2008)18 SCC 130*, which is followed in the matter of *United India Insurance Company Ltd. Versus Satinder Kaur (2021) 11 SCC 780*.

6. The learned Counsel submits that there are 07 dependents, for whom a sum of Rs.2,80,000/- ought to have been awarded towards the loss of consortium.

7. The learned Counsel for the respondent/insurance company argues that the amount of compensation is rightly

computed against loss of financial dependence. He also points out that in the event, compensation towards consortium is enhanced, appropriate deduction should be made towards compensation awarded for loss of love and affection and consortium, which is already awarded.

8. Having heard the respective submissions, following points arise for my consideration in the present appeal.

- i. Has the learned Tribunal erred in not awarding compensation towards future prospects?
- ii. Has the learned Tribunal erred in not computing compensation under conventional heads property?
- iii. What should be the enhancement in the amount of compensation awarded, if any?

Point Nos.(i) to (iii) :-

9. Perusal of the judgment and award passed by the learned Tribunal demonstrates that the aspect of future prospects has skipped the attention of the learned Tribunal. The learned counsel for the appellant is right in raising grievance in this regard. Having regard to the age of the deceased i.e. 37 years on the date of his sad demise coupled with fact that he was not in permanent employment an

enhancement of 40% is required to be granted against the head of future prospects. Apart from addition for future prospects, deduction towards personal expenses of the deceased will also have to be made. Since the deceased is survived by seven dependents, deduction of 20% is required to be made on his monthly income. The monthly income of the deceased was Rs.10,000/-, and as such 40 percent component towards future prospects comes to Rs.4000/-. Thus for the purpose of computation of compensation monthly income of the deceased will have to be taken at Rs.14,000/-. A further deduction of 20 percent is required to be made on account of personal expenses which comes to Rs.2800/-. Therefore, the monthly loss of dependents comes to Rs.11,200/-. The annual loss of dependence is Rs.1,34,400/-. Having regard to the age of the deceased i.e. 37 years multiplier of 15 is required to be applied and accordingly total compensation payable under the head of financial dependence comes to Rs.20,16,000/-.

10. In view of the law laid down in ***Magma General Insurance Company Limited and Satinder Kaur*** referred above the widow, 4 children, mother and father of the deceased are entitled to sum of Rs.40,000/- each towards loss of

consortium. The learned Tribunal has awarded a consolidated sum of Rs.40,000/- towards loss of consortium.

11. In that view of the matter, a sum of Rs.2,40,000/- (2,80,000 – 40,000) needs to be enhanced towards loss of consortium.

12. In view of the aforesaid, the amount of compensation payable to the appellants needs to be paid as under:

a)	Towards loss of dependency	:- Rs. 20,16,000/-
b)	Towards loss of Estate	:- Rs.15,000/-
c)	Towards consortium	:- Rs.2,80,000/-
d)	Towards Medical expenses	:- Rs.25,000/-
e)	Towards Transportation	:- Rs.15,000/-
f)	Towards funeral expenses	:- Rs.15,000/-
Total		:- <u>Rs.23,66,000/-</u>

(Total Rupees Twenty three lakhs sixty six thousand)

As against this, the learned Tribunal has awarded compensation of Rs.15,50,000/-. In view of the above, the appeal is partly allowed by granting enhancement of Rs.8,16,000/-, hence the following order:

ORDER

- a. The appeal is partly allowed.
 - b. The judgment and award dated 08.11.2017 passed by the learned Member, Motor Accident Claims Tribunal, Ahmednagar in Motor Accident Claims Petition No.722/2012 is modified as under :-
 - c. The Respondent No.1 and 2 shall jointly and severally pay Rs.23,66,000/- (Rs. Twenty three lakhs sixty six thousand Only) to the appellants towards the compensation under Section 166 of the Motor Vehicles Act, with interest at the rate of 9% per annum from 06.11.2012 i.e. the date of the filing of Claim Petition till realization of the amount. However, in view of order dated 20.03.2023 passed in Civil Application No.8584 of 2022, the applicants shall not be entitled to receive interest on the enhanced amount of compensation for the period of delay caused in filing First Appeal i.e. 1479 days.
- 3) The compensation amount of Rs.23,66,000/- shall be distributed amongst the appellants in the following manner :

(i) The amount of Rs.11,00,000/- (Rs. Eleven Lakh Rupees only) alongwith accrued interest be given to the appellant No.1,

(ii) the amount of Rs.2,16,500/- (Two lakhs sixteen thousand five hundred Rupees only) alongwith accrued interest be given to appellant nos.2 to 5, each, and

(iii) the amount of Rs.2,00,000/- (Two lakh rupees only) alongwith accrued interest be given to appellant Nos.6 and 7, each.

4) The said amount be paid to the appellants by way of account payee cheque, after due identification of the appellants.

5) The amount of compensation is inclusive of the amount of Rs.50,000/- paid against fault liability as per under Section 140 of the Motor Vehicles Act is withdrawn by the appellants, the same shall be adjusted in aforesaid compensation amount.

6) The amount coming to the shares of minor appellant nos.4 and 5 shall be kept in fixed deposit in any Nationalized bank till they attain the age of majority.

- 7) The amount of compensation of Rs.23,66,000/- includes the amount of compensation of Rs.15,50,000/- awarded by the learned Tribunal.
- 8) The award be drawn up accordingly.

(ROHIT W. JOSHI, J)