

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2107 OF 2011
WITH
CIVIL APPLICATION NO.8893 OF 2008
IN FA/2107/2011

National Insurance Company Limited,
Through its Divisional Manager,
Hazari Chambers, Station Road, Aurangabad.

... Appellant
[Orig. Resp. No.2]

Versus

1. Meena W/o. Ramdas Bendre,
Age : 38 years, Occu. : Nil,
R/o. Babbleshwar, Taluka Rahata,
District : Ahmednagar.
2. Kudhari D/o. Ramdas Bendre,
Age : 18 years, Occu. : Education,
R/o. As Above.
3. Vaishali D/o. Ramdas Bendre,
Age : 16 years, Occu. : Education,
4. Tushar S/o. Ramdas Bendre,
Age : 15 years, Occu. : Education,
Nos.3 & 4 minors under guardianship
of mother respondent No.1 (Claimant No.1),
5. Dhondiram S/o. Maruti Bendre,
Age : 71 years, Occu. : Agri.,
R/o. As Above,
6. Janabai W/o. Dhondiram Bendre,
Age : 61 years, Occu. : Household,
R/o. As Above,
7. Rajendra Murlidhar Saykar,
Age : 24 years, Occu. : Service,
R/o. Ganeshnagar, Tq. Rahata,
Dist. Ahmednagar.

(Nos.1 to 6 Orig. Claimants)

(Orig. Resp. No.1)

... Respondents.

.....

Mr. S. P. Chapalgaonkar, Advocate for Appellant – Insurance Company
Mr. S. K. Shinde, Advocate for Respondent Nos.1 to 6.
Mr. Rushikesh Lohe h/f. Mr. Anand Bhandari, Advocate for Respondent No.7

.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 11 NOVEMBER 2025
PRONOUNCED ON : 17 NOVEMBER 2025

JUDGMENT :

1. Insurance Company – original respondent no.2 is hereby taking exception to grant of compensation by learned Motor Accident Claims Tribunal, Sangamner in M.A.C.P. No. 532 of 2002 by which present respondents are beneficiaries of compensation to the tune of Rs.3,00,000/- with 6% per annum rate of interest on account of accidental death of Ramdas.

FACTS GIVING RISE TO THE CLAIM FOR TRIAL ARE AS UNDER

2. Deceased Ramdas was returning home on his motorcycle, at that time, he was given dash by another motorcycle bearing No. MH-17-H-8756 causing multiple and grievous injuries and succumbed to the same while undergoing treatment. Therefore, original claimants filed an accident claim petition seeking compensation of Rs.3,00,000/-. The claim petition was contested by original respondent no.1 as well as respondent no.2 i.e. present appellant - insurance company. Learned Accident

Claims Tribunal reached to a finding that there was rash and negligence on the part of motorcycle driver and as such claimants are entitled for compensation. Learned tribunal was pleased to award compensation to the tune of Rs.3,00,000/- under various heads. It further directed the respondents to jointly and severally pay the said compensation.

Above judgment and award of learned tribunal is taken exception to by insurance company by filing instant appeal.

SUBMISSIONS

3. According to learned counsel for insurance company, there is only challenge to the quantum of compensation awarded, as according to him, there was no iota of evidence in support of so called employment of deceased Ramdas in a sugar factory. He pointed out that, only one month's salary slip of the deceased Ramdas was placed on record and the same was directly considered by the learned tribunal. That, no witness in support of salary income was examined. That, even the learned tribunal in absence of evidence held that deceased was conducting milk business and earning agricultural income, and awarded Rs.30,000/- towards the said loss. For above reasons, learned counsel urges to set aside the impugned judgment and award of learned tribunal.

4. In answer to above, learned counsel for respondents original

claimants would support the judgment and order of tribunal by pointing out that salary slip has been taken on record for consideration salary income of deceased Ramdas. The same has been correctly appreciated. However, according to him, learned tribunal has failed to grant compensation under the head of loss of consortium and medical expenses for the medical treatment till deceased Ramdas expired and no amount has also been granted towards funeral expenses.

5. In the light of above submissions, here, there is no dispute about rash and negligence on the part of original respondent no.1 or about vehicle to be insured with respondent no.2. Though in the trial court, insurance company – appellant has taken a plea that there was breach of conditions, there is no evidence in that regard. Admittedly, learned counsel has confined his grievance to the quantum. According to him, there was only one month salary slip or no witness in support of salary allegedly received by deceased Ramdas, was examined. In the light of above such arguments, the impugned judgment is visited, and it is noticed that learned tribunal has dealt such aspect while deciding issue nos.4 to 6. The said salary slip placed on record shows that deceased Ramdas was working as Mukadam in Pravara Sugar Factory Irrigation Department. In view of the salary certificate on record, there is no reason to disbelieve the same. As regards to allied business of milk and

agriculture is concerned, learned tribunal has observed that there is no distinct evidence in support of agricultural income to the tune of Rs.1,00,000/- and earning of Rs.4,500/- per month from milk business. However, learned tribunal has correctly held that from all sources, deceased might be earning Rs.30,000/- yearly. Appropriate 1/3rd deductions for personal expenses are also made from above income to derive annual income, no fault can be found in the said computation made by the tribunal.

6. Learned counsel for respondents has pointed out that learned tribunal has not granted amount under the heads of loss of consortium, medical expenses and funeral expenses.

7. Indeed, on going through the judgment under challenge, one does not come across any amount is granted under such heads. In view of the ratio laid down in *National Insurance Company Limited v. Pranay Sethi and Ors.*, 2017 SCC OnLine SC 1270 ; *Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram and Others*, (2018) 18 SCC 130 and *Nagappa Vs. Gurudayal Singh and Others*, (2003) 2 SCC 274, claimants are entitled for Rs.40,000/- each, i.e. 2,40,000 /- plus 50% (Rs.1,20,000/-) which comes to Rs.3,60,000/- towards loss of consortium. There is no evidence as regards to medical expenses

allegedly incurred while he was admitted in the hospital from 26.03.2000 to 30.03.2000. Therefore, considering the fatal injuries allegedly suffered, it would be just and proper to award Rs.40,000/- towards medical expenses allegedly incurred for treatment. Likewise, claimants are also entitled for compensation under the head of funeral expenses to the tune of Rs.5,000/-.

8. In view of the aforesaid discussion, claimants are entitled for following compensation :

Sr. No.	Heads	Amount (Rs.)
1.	Annual Income	30,000/-
2.	Less 1/3 rd deduction towards personal expenses. (Rs. 30,000 – Rs. 10,000)	20,000/-
3.	Multiplier of 15 (20,000 X 15)	3,00,000/-
4.	Loss of consortium = 3,60,000/- Medical Expenses = Rs.40,000/- Funeral expenses = Rs.5,000/-	4,05,000/-
5.	Total compensation to be paid	7,05,000/-
6.	Compensation awarded by Tribunal	3,00,000/-
7.	Total Enhanced Compensation (i.e. Rs.7,05,000 – 3,00,000)	4,05,000/-

9. In the result, following order is passed :-

ORDER

- (i) Impugned judgment and award dated 15.03.2008, passed by the learned Member, Motor Accident Claims Tribunal, Sangamner in M.A.C.P. No.532 of 2002 (Old No. M.A.C.P. No.692 of 2000) is modified.
- (ii) Appellant - insurance company to pay enhanced compensation of Rs.4,05,000/- to original claimants within 12 weeks from today along with interest @ 6% per annum from the date of registration of claim petition till its realization.
- (iii) Modified award be prepared accordingly.
- (iv) Claimants to pay court fees on enhanced compensation as per rules.
- (v) On deposit of the amount by Insurance Company, claimants are permitted to withdraw the same.
- (vi) Appeal is disposed in above terms.
- (vii) Pending civil application is also disposed of.

(ABHAY S. WAGHWASE, J.)