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FA-2982-2016 STM

order is corrected pursuant to speaking to minutes of order dated 14.10.2025.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2982 OF 2016
WITH
CIVIL APPLICATION NO. 10955 OF 2016
WITH
CIVIL APPLICATION NO. 5282 OF 2025

Maharashtra State Road Transport Corporation
Through Divisional Controller,
Division Office, at Aurangabad.

...APPELLANT
(Orig. Respondent No.1.)

VERSUS

- 1] Suresh s/o. Uttamrao Sonwane
Age: 33 yrs. Occu: Nil,
R/o. Bahirgaon, Tq. Kannad,
Dist. Aurangabad.
- 2] Uday s/o. Suresh Sonwane
Minor u/g of Respondent No.1
Age: 9 yrs. R/o. Bahirgaon, Tq. Kannad,
Dist. Aurangabad.
- 3] Miss Snohel d/o. Suresh Sonwane
Minor u/g of Respondent No.1
Age: 06 yrs. R/o. Bahirgaon, Tq. Kannad,
Dist. Aurangabad.

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4] Miss Neha d/o. Suresh Sonwane
Minor u/g of Respondent No.1.
Age: 4 yrs. R/o. Bahirgaon, Tq. Kannad,
Dist. Aurangabad.

5] Smt. Vatsalabai wd/o Uttam Sonwane
Age: 51 yrs. Occu: nil
R/o. Bahirgaon, Tq. Kannad,
Dist. Aurangabad.

6] Smt. Indubai w/o. Dattu Kasbekar
Age: 48 yrs. Occu: Nil
R/o. Bahirgaon, Tq. Kannad,
Dist. Aurangabad.

...RESPONDENTS

(Orig. Claimant Nos.1 to 6)

7] Pandharinath s/o. Namdeo Bhalerao
Age: 50 yrs. Occu: S. T. Driver
R/o. S. T. Bus Depot Kannad, Tq. Kannad
Dist. Aurangabad.

...RESPONDENT NO.7

(Orig. Respondent No.2)

.....

Ms. Ranjana Reddy, Advocate for Appellant.

Mr. Kiran D. Jadhav, Advocate a/w Mr. V. L. Bhange, Mr. Chetan Naringe,
Advocates for Respondent Nos. 1 to 4.

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CORAM : KISHORE C. SANT, J.
RESERVED ON : 29th SEPTEMBER 2025.
PRONOUNCED ON : 8th OCTOBER 2025.

ORDER :-

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1. Heard the learned Advocate for the Appellant and learned Advocate for Respondents. The appeal is heard finally at the stage of admission with the consent of the parties.

2. The present appeal arises out of Judgment and Order dated 29th February 2016, passed by the learned Member, Motor Accident Claim Tribunal in Motor Accident Claim Petition No.815 of 2013.

3. The appellant is the Maharashtra State Road Transport Corporation (MSRTC for short) original respondent No. 1. The respondent Nos. 1 to 6 are the original claimant No. 1 to 6. The respondent No.7 is the Original Respondent No.2, a bus driver, who was driving the bus at the time of accident.

4. By way of impugned judgment and order, the learned Member Motor Accident Claims Tribunal had awarded the compensation of Rs.20,83,000/- including NFL amount, to Respondent Nos. 1 to 4, who are the husband, son and daughters, respectively, of the deceased

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Kamalbai. The liability is fixed upon present Appellant and Respondent No.7 jointly and severally with interest at the rate of Rs.9% from the date of filing of the petition i.e. 25th November 2013, till realization of the amount. The respondent No.1 is directed to keep Rs.4,00,000/- (Rupees Four Lacs) in fixed deposit in any nationalized bank for a period of five years. The amount towards compensation to Respondent Nos. 2 to 4 is directed to be kept in a Fixed Deposit Receipt till they attain majority. The respondent No.1 is entitled to receive monthly or quarterly interest on the fixed deposit receipt. The present appellant is therefore before this Court mainly on the ground of quantum.

5. The facts, in short, giving rise to the present appeal are that the deceased Kamalbai was a pillion rider on a motorcycle bearing registration No.MH-20-CA-7048. Her husband was driving the said motorcycle. While they were proceeding from their field to home, near Dabhadi Shivar, the offending bus bearing registration No.MH-20-D-6555 came from behind and gave dash to the motorcycle. In the

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accident, the deceased died on the spot. Respondent No.1 also received some injuries. The petition came to be filed with the case that the deceased was of 23 years of age. She was earning of Rs.10,000/- per month. The respondent Nos. 2 to 4 were depending upon her. The compensation of Rs.6,00,000/- was prayed for.

6. It is the case of the appellant that respondent No.7 was not driving the bus in rash and negligence manner. Due to negligence of respondent No.1, the accident took place.

7. The learned Member, after going through the evidence and trial, awarded the amount by taking the notional income to be Rs.6,000/- per month. It added 50% future prospects. Thus, by considering the income of Rs.9,000/- (6,000+3,000) per month, it is calculated to be Rs.1,08,000/- (9000x12) per year. The amount of $\frac{1}{4}$ (1,08,000÷4=27,000/-) is deducted towards self-expenses as there are four members in the family. The annual dependency was thus considered

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to be Rs.81,000/- (1,08,000-27,000). Considering the age as 23 years, the multiplier of 18 is applied. Thus, the amount granted towards compensation is Rs.14,58,000/- (81,000x18). The Court further granted Rs.1,00,000/- for Respondent No.1 to 4 each towards loss of consortium. Rs.1,00,000/- is granted towards loss of love and affection. Rs.1,00,000/- is granted towards loss of estate. Rs.25,000/- was granted towards funeral expenses. The total amount is thus taken to be Rs.20,85,000/- and each of the claimants is held to be entitled to Rs.5,20,750/-.

8. Ms. Reddy, the learned Advocate for the appellant mainly argued that the notional income Rs.6,000/- considered is higher than as per notional income. There is no proof to show that the deceased was earning. She submits that towards loss of consortium, each of the claimant was entitled to receive only Rs.40,000/- and not of Rs.1,00,000/- as awarded by the Court. Towards future prospects, she submits that the Court has granted 50% increase which is not correct.

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The future prospects ought to have been at the rate of 40%. The multiplier is also on higher side. The respondents would not be entitled to receive any amount towards future prospect. She thus argued that the compensation awarded is much higher than entitlement.

9. The learned Advocate for the respondents-claimants submits that the learned Tribunal has rightly considered all the aspect. There is no serious dispute about the age of the deceased. The Court has rightly granted future prospects at the rate of 50%. So far as loss of consortium is concerned, he submits that Respondent Nos. 2 to 4 are minor children that factors needs to be considered, and therefore, the learned trial Judge has rightly awarded the amount towards loss of consortium.

10. During the course of argument, the learned Advocate for the Appellant Ms. Reddy relied upon the judgment in the case of ***National Insurance Company Vs. Pranay Sethi and Ors.***¹ The Hon'ble Apex Court

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in paragraph No.61 in clause (iv) held as under:

“(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”

11. This Court does not find that when income is not established, the future prospects are not to be given. This Court, however, finds that the amount of future prospect could have been only 40% of the notional income. Only notional income is considered by this Court to be Rs.6,000/- and Rs.2400/- for future prospect thus the amount would be Rs.8400/- [Rs.6000+2400= 8400/-] per month. After deducting 1/4 amount, the amount would come Rs.6300/-. Thus, the amount towards annual dependency would come to $6300 \times 12 = \text{Rs.}75,600/-$. This amount multiplied by 18 would be of Rs.13,60,800/- ($75,600 \times 18$). For love of affection, the amount would be Rs.1,60,000/- ($40,000 \times 4$).

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12. So far as other heads are concerned, this Court does not find any reason to reduce the amount like, funeral expenses (Rs.25,000/-). Thus, the amount would be Rs.15,45,800/- (13,60,800+1,60,000+25,000 =15,45,800) instead of 20,83,000/-. Thus, the total amount would come to Rs.15,45,800/-. The claimants have already withdrawn amount of Rs. 10 lakhs only.

13. Hence, the following order:

ORDER

- (i) With this calculation, appeal stands partly allowed.
- (ii) The amount is already deposited in the office of this Court.
- (iii) The respondent Nos. 1 to 4 shall be entitled to withdraw remaining amount of Rs.15,45,800/- @ 9% p.a. in equal share till payment or realization as the case may be including NFL amount of Rs.50,000/- (Rs. Fifty Thousand only) as compensation excluding amount of Rs.10 Lakhs only that is already withdrawn.

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- (iv) During the pendency of the appeal, respondent No.2 has attained majority. The respondent No.1 shall deposit amount of their share in fixed deposit in the name of respondent Nos.3 and 4 till they attain majority in any nationalized bank and submit duly attested copies of fixed deposit receipts in this Court within a period of one month from the date of receipt of compensation amount.
- (v) The Court fees if paid on excess amount considering the total amount of Rs.20,83,000/- be refunded in proportion of the amount awarded by this Court.
- (vi) Remaining amount be refunded to the appellant.
- (vii) First Appeal stands disposed off.
- (viii) In view of disposal of First Appeal, nothing survives in the Civil Applications, and the same are also disposed off.

[KISHORE C. SANT, J.]