



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

FIRST APPEAL NO. 3145 OF 2024

1. Suman w/o Kondba Khokle,
Age; 29 years, Occ. Household,
2. Datta s/o Kondba Khokle,
Age; 07 years, (Minor)
U/G: Applicant No. 1.
3. Vaihali d/o Kondba Khokle,
Age; 09 years, (Minor)
U/G: Applicant No. 1.
4. Jeejabai w/o Datta Khokle,
Age; 63 years, Occ; Household,

All R/o: Gundewadi,
Tq. Kalamnuri, Dist. Hingoli.

...APPELLANTS
(Original Claimants)

VERSUS

1. Mohd. Mobin s/o Mohd. Ibrahim Bagwan,
Age; 41 years, Occ. Business,
R/o; 731006, Raza Nagar, Shakti Nagar,
At present Nanded, Tq. & Dist Nanded
Maharashtra 431 601
2. The New India Assurance Company Ltd.,
through its Branch Manager,
B.L. Avenue, Deshmukh Complex,
Ner Gulmohar Hotel, At Parbhani,
Tq. & Dist. Parbhani 431 401.

...RESPONDENTS
(Original Respondents)

...
Advocate for Appellants : Mr. Dhage Vaibhav B.
Advocate for Respondent No. 2 : Mr. Sudhir V. Kulkarni
...

CORAM : S. G. CHAPALGAONKAR, J.
Dated : 19.03.2025

ORAL JUDGMENT :-

1. Original Claimants in MACP No. 178 of 2020 filed this appeal seeking enhancement in compensation and aggrieved by assessment made

by Motor Accident Claims Tribunal, Parbhani in its judgment and award dated 05.12.2022.

2. It is not in dispute that on 13.05.2020 deceased Kondba Khokale met with an accident and suffered fatal injuries. Driver of insured vehicle bearing registration No. MH-26-AD-8985 is held to be responsible for accident, consequently Tribunal assessed compensation and passed award for Rs. 8,65,000/- along with interest @ 6 % p.a. in favour of Claimant.

3. Mr. Vaibhav Dhage, learned Advocate appearing for appellants submits that Tribunal considered income of deceased @ Rs.6,000/- p.m. but nothing is granted towards future prospects considering his age. Further Claimants are entitled for compensation towards non pecuniary losses.

4. Mr. Sudhir Kulkarni, learned Advocate appearing for respondents submits that Tribunal has considered necessary heads for grant of compensation. The just and proper award is passed, which requires no interference.

5. Having considered submissions advanced and perusal of impugned judgment and reasons adopted by Tribunal, it is apparent that income of deceased is considered @ Rs. 6,000/- p.m. but nothing has added towards future prospects. The age of deceased was 38 years, hence addition of 40% amount towards future prospects is mandatory in view of law laid down by Supreme Court in case of **Smt. Sarla Varma and others Vs. Delhi Transport Corporation and another**¹ and in **National Insurance Co. Ltd vs Pranay Sethi.**²

6. So far as, non pecuniary heads are concerned, learned

¹ AIR 2009 SC 3104

² AIR 2017 SC 5157

Tribunal added amount of Rs. 15,000/- towards love and affection, Rs. 30,000/- towards consortium and Rs. 10,000/- towards funeral expenses. However, it needs to be corrected in tune with law laid down in case of **Magma General Insurance Company Vs. Nanu Ram and Others Reported 2018 (18) SCC 130.**

7. In that view of the matter, award passed by Tribunal needs to be modified as per following calculations :

Particulars	Amount
6,000 p.m. x 12	Rs. 72,000/-
1/4th Deduction towards personal expenses	Rs. 18,000/-
Total =	Rs. 54,000/-
Addition of 40% future prospects	Rs.21,600/-
Total =	Rs. 75,600/-
38 years (Multiplier) =	"15"
Entitlement of each Claimant for loss of consortium Rs. 40,000/-	Rs. 1,60,000/-
Towards funeral expenses =	Rs. 15,000/-
Towards loss of estate =	Rs. 15,000/-
Towards non pecuniary heads =	Rs. 30,000/-
Total =	Rs. 11,34,000/- + Rs. 1,85,000/-
Grand Total =	Rs. 13,19,000/-
Tribunal Awarded =	Rs. 8,65,000/-
Total enhancement =	Rs. 4,45,000/-
@ 6% p.a. interest from 15.07.2020	

8. In the result, following order :

ORDER

- (i) Appeal is partly allowed.
- (ii) Award passed by Tribunal is partly modified.
- (iii) Claimants are held entitled for compensation of Rs. 13,19,000/- (Rs.Thirteen Lakhs and Nineteen Thousands only) along with interest @ 6% p.a. from date of filing of Claim petition. (Excluding period of 535

days of delay in filing this appeal).

(iv) Amount already paid /deposited under award of Tribunal shall be appropriated.

(v) Rest of the award passed by Tribunal is maintained.

(vii) Appeal is disposed off.

(S. G. CHAPALGAONKAR)
JUDGE

mahajansb/