IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2018 OF 2013

1. Smt. Rajiyabi Shakh Yunus
   Age: 34 years, Occupation: Household

2. Jiya Shaikh Yunus
   Age: 17 years, Occupation: Education

3. Imran Shikh Yunus
   Age: 15 years, Occupation: Education

4. Sufiyan Shaikh Yunus
   Age: 9 years, Occupation: Education

Applicant no.1 is the mother and
guardian of applicant no.2 to 4

All are residing at 385 Shani Peth,
Nr Katya File,Jalgaon, Dist. Jalgaon.

…..**APPELLANTS**
(Ori. Claimants)

VERSUS

1. Shri. Sunil Vishwasrao Patil
   Age: 32 years, Occupation: Business
   R/o 24 Krushi Colony, Nr Navsacha Ganpati Temple
   Jalgaon, Dist. Jalgaon (OWNER)

2. The New India Insurance Company Ltd.
   Mandore Market, Dadhiwala Bunglow,
   Jilha Peth, Merun Rod, Jalgaon (INSURER)

…..**RESPONDENTS**
(Ori. Opponents)

Mr. M. M. Bhokarikar, Advocate for Appellants
Mr. A. S. Usmanpurkar, Advocate for Respondent no.2

CORAM : AJIT B. KADETHANKAR, J.
DECIDED ON : 08TH OCTOBER, 2025

JUDGMENT :-

1. Feeling dissatisfied with the quantum of compensation granted by the learned Member, Motor Accident Claims Tribunal Jalgaon in Motor Accident Claim Petition No.388 of 2006 vide its judgment and award dated 27.04.2010 , the original claimants have preferred this First Appeal under Section 173 of the Motor Vehicles Act, 1988. The Appellants seek enhancement in the compensation.

For the sake of convenience, parties are referred to their 'factual status.'

2. Pursuant to notice issued by this Court, the respondents are served and the appeal is ready for hearing. Admit. By consent of the parties, the matter is heard finally as the controversy in the appeal is very short as regards only to quantum.

3. Core issues:

i. Whether the claimants deserve the additional compensation adding compensation towards future prospects in the income of the deceased?

ii. Whether the non pecuniary damages need to be added which are deficit in the compensation granted by the learned Tribunal?

iii. Whether the deduction towards personal expenses has to be @1/4th instead of 1/3rd out of deceased's income?

4. Facts in brief:

i. The undisputed facts are that, one Shaikh Yunus Shaikh Jafar aged about 38 years was working as Cleaner on tempo bearing registration No.MH-04-S-2239. On 30.04.2006 at about 06:00 a.m. while the deceased Shaikh Yunus Shaikh Jafar was traveling in the said tempo, the tempo driver dashed a road side tree. Due to the dash the tempo turned turtle and the said Shaikh Yunus Shaikh Jafar died of the accident injuries. The tempo was owned by the present respondent No.1 and was insured with present respondent No.2 at the time of the accident. These facts are undisputed.

ii. The claimants lodged present claim U/s 166 of the Motor Vehicles Act, 1988 for an amount of Rs. 5,00,000/- to be recoverable from the Owner and Insurer jointly and severally.

iii. Upon hearing the parties and going through the evidence on record, the learned Tribunal partly allowed the claim petition and fixed the compensation at Rs.3,84,000/- recoverable from Owner and Insurer jointly and severally. It is against the deficit compensation, the claimants are before this Court in the present appeal.

iv. Heard Mr. M.M. Bhokarikar for the Appellants i.e. Claimants and Mr. A. S. Usmanpurkar, learned Advocate representing the Insurance Company. On query, Mr. Usmanpurkar Ld. Counsel would submit that the Insurance Company has not preferred any appeal against the judgment and award which is impugned in the present appeal.

5. Arguments of appellant:

i. Mr. M. M. Bhokarikar, learned Advocate would submit in short that the learned Tribunal has not considered the 'future prospects' while fixing the compensation. He submits that since after the law laid down by the Hon. Supreme Court in the case of 'Pranay Sethi' reported in ***2017 INSC 1068***, it is now settled that even the component of 'Future Prospects' is applicable to present case also. He would submit that accordingly the award be enhanced adding future prospects.

ii. Mr. M. M. Bhokarikar, learned Advocate would further submit that considering the number of dependents, the deduction towards personal expenses ought to have been @1/4 instead of 1/3 out of the income of the deceased. He would submit that as the lesser portion would be deducted towards the personal expenses, the claimants would legitimately receive at least bigger portion towards loss of dependency.

iii. Mr. M. M. Bhokarikar, learned Advocate would lastly point out that even Non Pecuniary Damages are also not granted by the learned Tribunal to which the claimants are legitimately entitle. As such, Mr. M. M. Bhokarikar, learned Advocate would submit that the impugned judgment and award is erroneous and the compensation needs to be enhanced to make it 'just and proper'.

He would submit that the claimants are ready to pay court fees on the additional award amount, if granted and if needed.

<u>6. Argument of Respondent No.2:</u>

i. Mr. A. S. Usmanpurkar, learned Advocate for the Insurance Company although supports the finding rendered by the learned Tribunal and would submit that he would stand by 'just & proper' compensation.

ii. He would fairly agree that the compensation must include 'future prospects' as also the appropriate Non Pecuniary Damages. However, he objects that the multiplier must be M-15 instead of M-16. He relies upon the judgment rendered by the Hon'ble Supreme Court in the case of ***Sarla Verma & Ors. Versus Delhi Transport Corporation and Ors.**, reported in (**2009) 6 SCC 121***, portion of which is reproduced as under:

> *"21. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, **<u>M-15 for 36 to 40 years</u>**, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."*

iii. As such, Mr. A. S. Usmanpurkar, learned Advocate in all fairness would submit that although the claimants might be entitled for some enhancement if the learned Tribunal has missed any mandatory component, yet multiplier also needs to be reduced correctly in the peculiar facts of the case corresponding to the age of the deceased.

7. Upon hearing the parties and considering the points argued by them, I framed following points for consideration in the First Appeal:

Sr. No.	Points	Findings
1.	Whether the learned Tribunal missed to add the Future Prospects and Non Pecuniary Damages in the Award Compensation?	Yes.
2.	Whether multiplier needs to be applied as M-15 instead of M-16?	Yes
3.	What order ?	As per final order.

<u>8. Findings and reasoning:</u>

i. With able assistance of the learned Advocates for the respective parties, I have gone through the record pertaining to the case in hand. Since only the question of correct quantum is involved, the points framed are answered compositely.

ii. The facts in the case are absolutely not disputed by any party. So also there is no issue of any legal defense to be addressed by the Insurance Company. As such, it's a matter where purely enhancement in the compensation is to be ascertained.

iii. Indeed it is seen that the Ld. Tribunal has not taken into consideration the component of 'Future Prospects' while fixing the award. In view of the law laid down by the Hon'ble Supreme Court in the case of ***Pranay Sethi, (supra)***, an addition @ 40% of the income of the deceased has to be added in the deceased's income considering his age. So far as addition of 'future prospects' is concerned, there could be no dispute now that the claimants deserve enhancement in the compensation by adding 40% of the income of deceased towards 'future prospects'.

iv. It is trite law that considering the number of claimants, the deduction towards personal and living expenses of the deceased have to be held @1/4th share but not 1/3rd. Profitable reference can be made to the findings rendered by the Hon'ble Supreme Court in the case of 'Sarla Verma' (supra)

> *14. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3,* ***one-fourth (1/4th) where the number of dependent family members is 4 to 6****, and one-fifth (1/5 th) where the number of dependent family members exceed six.*

v. So also, towards 'Non Pecuniary Damages' consortium @Rs.40,000/- per each claimant and Rs.30,000/- towards funeral expenses and loss of estate, etc. need to be granted.

vi. I am in full agreement that the submissions made by Mr. A. S. Usmanpurkar that the multiplier has to be in conformity with the finding rendered by the Hon'ble Supreme Court in the case of ***Sarla Verma*** (supra) and as such, the appropriate multiplier has to be M-15, but not M-16.

9. The appellants have not made out any case for holding income of the deceased on any higher side. Hence, the computation is carried out accordingly holding his income @3,000/- per month as has been rightly held by the Ld. Tribunal considering the facts of the case and the period of accident.

10. As such, in my view, following calculation would result into 'just and proper' compensation.

Sr. No.	Particulars	Amount
1	Monthly income	3,000/-
2	Future prospects @40%	1,200/-
Total		**4,200/-**
3	Yearly income (4200*12)	50,400/-
4	Multiplier (Age 38=M-15)	7,56,000/-
5	Deduction 1/4	-1,89,000/-
		5,67,000/-
	Non pecuniary damages	1,90,000/-
Total		**7,57,000/-**

11. As such, the correct entitlement of the claimants could be Rs.7,57,000/- as described above.

12. The appellants are already in receipt of Rs.3,84,000/-. Hence, the appellants are entitled for enhancement of Rs.3,73,000/-. In view of this, I pass following order:

ORDER

a. First Appeal is partly allowed.

b. The judgment and award impugned in the First Appeal is modified to the extent of granting compensation Rs.7,57,000/- in place of Rs.3,84,000/- in the clause No.2 of the operative order impugned Judgment and Award.

c. Respondent nos.1 and 2 shall jointly and severally pay an additional amount of Rs.3,73,000/- together with annual interest @ 7.5 % from the date of filing the claim petition till the deposit of entire amount.

d. Respondent Nos.1 and 2 shall deposit the enhanced amount together with accrued interest within eight (08) weeks from today in this Court.

e. The claimant shall be entitled to withdraw the enhanced amount together with accrued interest thereon after the Insurer deposits such amount in this Court.

f. The claimants/appellants to pay deficit Court fees, if any.

g. Award be modified accordingly.

h. Pending Civil Applications if any, stand disposed of.

(AJIT B. KADETHANKAR, J.)

Rushikesh/2025