IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO. 2116 OF 2024

1] Durga W/o. Sunil Palhate,
Age 29 years, Occ. Household,

2] Siddharaj S/o. Sunil Palhate,
Age 6 years, Occ. Nil,
Applicant No.2 is minor through his
Legal guardian mother applicant No.1

3] Ramesh Ramlal Palhate,
Age 66 years, Occ. Labour.

4] Kashbai w/o. Ramesh Palhate,
Age 61 years, Occ. Household

All R/o. Mategaon, Tal. Kannad,
Dist. Aurangabad.

.. APPELLANTS

VERSUS

1] Bhausaheb Mohan Shinde,
Age 51, Occ. Business,
R/o. Karanji, Taluka Pathardi,
Ahmednagar
(owner of Mahindra Pickup No. MH-12 JF 7853)

2] Cholamandalam MS General Insurance Co. Ltd.,
Through its Authorized Signatory/Manager,
Dare House, 2nd Floor, N.S.C. Bose Road,
Chennai 600 001.
(Iisurer of Mahindra Pickup No. MH-12/JF 7853)

.. RESPONDENTS
(original respondents)

Mr. Murar D. Deshpande, Advocate a/w. Mr. Sujit S. Kulkarni
Advocate for appellants
Mr. A.G. Choudhari, Advocate for respondent No.2.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 4TH MARCH, 2025.

JUDGMENT :-

1] Heard learned advocates for respective parties. Original claimants in MACP No. 522 of 2017 are before this Court seeking enhancement of compensation against judgment and award dated 7.9.2022 passed by Motor Accidents Claim Tribunal, Ahmednagar.

2] Learned advocate for appellants submits that the Tribunal has not appropriately considered income of deceased although bank account statement reflects that last drawn salary of deceased for the month of September, 2017 was Rs. 9320/-. He would further submit that the Tribunal failed to grant compensation under caption of "loss of consortium" to claimant Nos. 2 to 4. As such, award is inadequate.

3] Mr. Chaudhari, learned advocate for respondent No.2 Insurer, however, supports the award contending that claimant could not prove monthly income by leading cogent evidence. The bank entries as regards salary income are fluctuating. The Tribunal has, therefore, considered average income based on bank entries and worked out the compensation. He would further submit that in view of judgment of the Supreme Court in the case of ***Shriram General Insurance vs. Bhagat Singh Rawat (Civil Appeal Nos. 2410 and 2412 of 2023)*** dated 27.3.2023, loss of consortium can be granted only as single head and not independently to all dependents. Therefore, consortium of Rs. 40,000/- as granted by Tribunal is justified.

4] Having considered submissions advanced, it can be observed that the deceased Sunil was in service of Badve Engineering Private Limited at Aurangabad. The claimant in her evidence affidavit stated that monthly salary of deceased was Rs. 9022/-. She produced copy of passbook maintained with Central Bank of India. Apparently, in August, 2017, an amount of Rs. 9223/- was deposited, whereas, in September, 2017 an amount of Rs. 9320/- was deposited in bank account of deceased towards salary. However, Tribunal taking the salary receipt for July, 2017 considered the average income @ Rs. 8819/- and calculated compensation. This Court is of the view that when, last month prior to his death, salary receipt of deceased depicts Rs. 9000/- plus and claimant No.1 has testified monthly salary of deceased to the tune of Rs. 9022/- p.m. which is actually less than receipt, her statement on affidavit, ought to have been accepted. The salary of deceased ought to have been considered @ Rs. 9022/- p.m. as claimed.

5] So far as compensation towards loss of consortium is concerned, the Tribunal awarded only Rs. 40,000/-. The Supreme Court of India in the matter of ***Magma General Insurance Company vs. Nanuram and others, reported in AIR 2019 SC (supp) 906***, observed that loss of consortium to dependents of victim has to be granted under 3 counts (1) parental consortium (2) filial consortium (3) spousal consortium. In present case, claimants are widow, minor son and parents of deceased. Therefore, compensation under all three head was permissible which shall be @ Rs. 40,000/- each. Therefore, under head of "loss of consortium" claimants are entitled for additional compensation of Rs. 1,20,000/-.

5] Although on this point, Mr. Choudhari relies on judgment of the supreme court in the matter of ***United India Insurance Company Ltd. vs. Satinder Kaur @ Satwinder Kaur and others (2021) 11 SCC 780*** (which also makes reference of judgment in case of *Nanuram (supra))* Position has been further clarified in the matter of ***New India Assurance Company Limited vs. Somwani and others reported in (2020)9 SCC 644***, which provides grant of consortium to each of the claimants as per aforesaid heads. Therefore, this court is inclined to rely upon Larger Bench view of the Supreme Court of India in the matter of ***United India Insurance Company Limited vs. Satinder Kaur @ Satwinder Kaur (supra)***.

6] In view of aforesaid discussion, the compensation admissible to claimants can be described in tabular form, as under

Sr. No.	Particulars	Amount considered by Tribunal	Amount which ought to have been considered
1.	Monthly income	8,819	9022
2.	Future prospects	13,229 (4410)	13533 (4511)
3.	1/4th deduction towards personal expenses	9922(3307)	10150 (3383)
4.	Annual Income	119064	121800
5.	Multiplier of 17	2024088	2070600
6.	Towards Consortium	40000	160000
7.	Funeral Expenses	15000	15000
8.	Loss of Estate	15000	15000
9.	Total	20,94,088	22,60,600
10.			1,66,512

7] In tune with the aforesaid calculations, the award passed by Tribunal needs to be modified. Claimants are, therefore, held entitled for total compensation of Rs. 22,60,600/- as against Rs. 20,94,088/- as awarded by Tribunal. Rest of the award passed by Tribunal. Rest of the award passed by Tribunal shall mutatis mutandis apply to modified award in this appeal.

8] First appeal stands partly allowed and disposed of.

[S.G. CHAPALGAONKAR, J]

grt/-