Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 812 OF 2016

1. Kamal Dhondiram Lahigade
Age :- 44 years, Occu. Housewife
Residing at Kasegaon
Tal. Walwa, Dist- Sangli ...Appellant

Versus

1. Shriram General Insurance Co. Ltd.
E.P.I.P. Tiko Industries Area,
Sitapur, Jaipur, Rajashtan 302022

2. Satish Krishna Gawali
Age : 40 yrs, Occu. : owner
Residing at Subhash Nagar,
Malgaon, Tal. Miraj, Dist. Sangli

3. Suresh Yallappa Bevnoor
Age : 40 yrs, occu. Drive,
Residing at Sanjay Gandhi
Zopadpatti, Sangli ...Respondents

Mr. Bhushan Walimbe a/w Mr. Vaibhav V. Arage for the Appellants.
None for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th NOVEMBER, 2025

JUDGMENT :

1. This Appeal is preferred by the appellant-claimant against the judgment and order passed by the Motor Accident Claims Tribunal, Islampur (for short “the Tribunal”) for enhancement of compensation.

2. It is the contention of learned counsel for the appellant that the deceased was the sole earning member of the claimant’s family. He was doing transport business as well as agricultural work he owned two trucks and was earning Rs.40,000/- per month, but the Tribunal has considered his monthly income at Rs.8,000/- per month which is on lower side. Learned counsel further submitted that the Tribunal has not awarded future prospects and the consortium amount is awarded on lower side. Hence, requested to allow the appeal.

3. Though the respondent no.1-insurance company is served, none present for respondent no. 1, hence I am deciding the matter on merit as sufficient opportunity was given to the respondents to go on with the matter.

4. I have heard learned counsel for the appellant. Perused the impugned order and judgment passed by the Tribunal.

5. It is claimant's case that the deceased was doing transport business. He owned two trucks and he was earning Rs. 40,000/- per month. To prove the income of the deceased, the claimant has examined herself at Exhibit-26. She has stated that the deceased was doing agricultural work and also doing transport business and was earning Rs.40,000/- per month from it and Rs.5000/- per month from agricultural work. Nothing elicited in cross-examination of the claimant.

6. While dealing with the issue of income of the deceased, the Tribunal has observed that no income tax returns produced on record to prove the income of the deceased. On that basis, the Tribunal considered Rs.8,000/- as notional monthly income of the deceased. In my view, it is on lower side as the deceased owned two trucks and he was also getting income from agricultural work. Hence, I am considering Rs.10,000/- per month as notional income of the deceased.

7. While awarding compensation, the Tribunal has not awarded future prospects. As per the view of Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi 2017 ACJ 2700 (SC)***, the claimant is entitled for

40% future prospects. The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court, in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)***, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate.

8. Considering above calculations, the claimant is entitled for following compensation.

Monthly Salary	Rs.10,000/-
Annual Income	Rs.1,20,000/-
Add: 40% future prospects	Rs.48,000/-
Total income	Rs.1,68,000/-
Multiplier 17 (Rs.1,68,000/- X 17)	Rs.28,56,000/-
Deduction 50%	Rs.14,28,000/-
	Rs.14,28,000/-
Loss of consortium Rs.48,000/- (deceased)	Rs.48,000/-
Funeral Expenses	Rs.18,000/-
Loss of Estate	Rs.18,000/-
Total amount of compensation	**Rs.15,12,000/-**
Less awarded by the Tribunal	Rs.8,50,000/-
Enhanced amount	**Rs.6,62,000/-**

9. In view of above, I pass following order:

<u>ORDER</u>

I. Appeal is allowed.

II. The appellant/claimant is entitled for enhanced compensation of **Rs.6,62,200/-** @ 7.5% interest from the date of filing claim petition till realization of the amount.

III. The Respondent No.1 - Insurance Company shall deposit the enhanced compensation amount along with accrued interest thereon, within six weeks after receipt of this order.

IV. The appellant/claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

V. The claimant shall pay the deficit Court fees on enhanced amount, if any, as per Rule.

VI. Record and Proceedings be sent back to the Tribunal.

10. In view of the above, the appeal is allowed and disposed off.

11. All pending applications, if any, stand disposed off.

[SHIVKUMAR DIGE, J.]