IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 44 OF 2008

The New India Assurance Co. Ltd. 1800, Ashirvad Bhavan, Near Post Office Kudal, Tal: Kudal, District: Sindhudurg.	....	**Appellant** **Original** **Opponent** **No.3**

Versus

1. Bhakthi Bhalchandra Revadekar
age about 21 years.
Occupation: Household
2. Laxmi Yashwant Revadekar
age about 50 years,
Occupation: Household
3. Shilpa Yashwant Revadekar
age about 20 years
Occupation: Education
4. Mast. Guruprasad Bhalchandra Revadekar
age 1 years, Occupation: Nil,
As minor through: Natural Guardian
Mother, applicant No.1

All r/o. A/p. Asalde, Tal. Kankavali District: Sindhudurg.	....	**Original** **Applicants**
5. Anil Ravindra Khanekar Age about: Adult, Occupation: Business R/o: A/p. Ghotwade, Tal. Mulshi District: Pune, 411001.	....	**Original** **Opponent** **No.1**
	....	**Respondents**

Ms. Poonam Mital a/w Mr. Atharva R.B. Advocate for the Appellant.
Mr. Devesh Sawant a/w Mr. Manoj Patil i/b Mr. Devesh Sawant, Advocate for the Respondent Nos.1, 3 and 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd DECEMBER, 2025.

ORAL JUDGMENT. :

1. This appeal is preferred by the Appellant – Insurance Company against the judgment and order passed by the Motor Accident Claims Tribunal, Sindhudurg (for short, “the Tribunal”).

2. It is contention of learned counsel for the Appellant – Insurance Company that the accident occurred due to sole negligence of the deceased. Learned counsel further submitted that there was breach of terms and conditions of insurance policy as driver of offending vehicle was not holding effective and valid driving licence. The offending vehicle was not insured with the Appellant – Insurance Company, it was a third party insurance policy. Learned counsel further submitted that the Tribunal has not considered three years average monthly income of the deceased. The Tribunal has considered monthly income of the deceased on higher side, which is erroneous. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondents – Claimants that the offence was registered against the driver of offending vehicle, he was not examined before the Tribunal to prove the negligence of the deceased. Learned counsel further submitted that the deceased was working in Tata Motors and earning Rs.13,000/- per month, but the Tribunal has considered his monthly income at Rs.11,000/- which is proper. Learned counsel further submitted that the Tribunal has passed well reasoned order, no interference is required in it, and requested to dismiss the appeal.

4. I have heard both learned counsels, perused impugned judgment and order passed by the Tribunal.

5. It is Claimants' case that on 22nd April, 2004, at about 2:00 p.m., the deceased Bhalchandra Revadekar was riding on motorcycle with his wife i.e. the Claimant No.1 as a pillion rider. When he was proceeding on the road, at the relevant time, the offending tempo came from opposite direction in high and excessive speed and gave dash to his motorcycle. Due to said dash, the deceased suffered grievous injures and died while taking treatment. The Claimant No.1 has also suffered grievous injuries. The offence was registered against the driver of offending tempo.

6. To prove the negligence, the Claimants have examined the Claimant No.1. She has stated that the accident occurred due to sole negligence of the driver of offending tempo. The driver of offending tempo did not step into witness box to prove the negligence of the deceased.

7. While dealing with the issue of negligence, considering evidence of the Claimant No.1, who was eye witness of the incident as well as relying on police papers. The Tribunal has held that the accident occurred due to negligence of the driver of offending tempo. I do not find infirmity in it.

8. In my view, an offence was registered against the driver of offending tempo. The Claimant No.1 had witnessed the incident. The police papers produced on record indicates that there was negligence of the driver of offending tempo, moreover he did not step into witness box. Considering these facts, I do not find merit in the contention that accident occurred due to negligence of the deceased.

9. It is Claimants' case that the deceased was serving with Tata Motors Co. Ltd. Pimpri, Pune and was earning Rs.10,000/- to Rs.13,000/- per month as salary. To prove the income of the deceased, the Claimants have examined PW-2 Rajendra Anakaikar,

the Account Officer of Tata Motors Ltd. Pimpri. He has stated that the deceased was serving in Tata Motors, as temporary worker. He produced salary slips on record, these are at Exhibit – 41 to 43 and pay slip at Exhibit – 53 to 55. Considering evidence on record, the Tribunal has considered average monthly income of the deceased at Rs.11,249/- per month, it is proper. I do not find infirmity in it.

10. The Tribunal has not awarded future prospects. As per view of the Hon’ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi 2017 ACJ 2700 (SC)***, the Claimants are entitled for 50% future prospects. The Tribunal has awarded consortium amount on lower side. As per view of the Hon’ble Apex Court in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)***, each Claimant is entitled Rs.48,000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18,000/- for funeral expenses.

11. Considering above calculations, the Claimants are entitled for following compensation.

Monthly income	Rs.11,159/-
Annual income	Rs.1,33,908/-
Less: 1/3rd deduction	Rs.44,636/-
Total income	Rs.89,272/-
Add: 50% future prospects	Rs.44,636/-

Total income	Rs.1,33,908/-
Multiplier 17 (Rs.1,33,908/- X 17)	Rs.22,76,436/-
Consortium amount Rs.48,000/- X 4 (Claimants	Rs.1,76,000/-
Funeral expenses	Rs.18,000/-
Loss of estate	Rs.18,000/-
Total compensation	**Rs.24,88,436/-**
Less awarded by the Tribunal	Rs.14,98,415/-
Enhanced amount	**Rs.9,90,021/-**

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

ORDER

i. The Appeal is dismissed.

ii. The Claimants are entitled enhanced amount of **Rs.9,90,021/-** @ 7.5% interest per annum from the date of filing claim petition till realization of the amount. Out of this amount, Rs.2,12,000/- is consortium amount, the Claimants are entitled interest on this amount @ 7.5% from the 1st November, 2017.

iii. The Appellant – Insurance Company shall deposit the enhanced amount within six weeks, after receipt of this order.

iv. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

v. The Claimants shall pay the deficit Court fees on enhanced amount, if any, as per Rules.

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

13. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)