

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.309 OF 2023

1. Lalita Mohan Mane }
Age-50 years, Occ: Household }

2. Akshay Mohan Mane }
Age-25 years, Occ: Education }

3. Pooja Mohan Mane }
Age-23 years, Occ: Education }

4. Priti Mohan Mane }
Age-20 years, Occ: Education }

All R/at C/o. Sahadev Devidas Kale }
Kothale, Taluka-Mohol, District-Solapur }

...Appellants

Versus

1. Harischandra Govindrao Wakade }
Age-45 years, Occ: Business }
R/o. Pattiwadgaon, Ghatanadur, }
Taluka-Ambajogai, District-Beed-431517 }

2. Venkat Harishchandar Wakade }
Age-45 years, Occ: Driver }
R/o. Pattiwadgaon, Ghatanadur, }
Taluka-Ambajogai, District-Beed-431517 }

3. Divisional Manager }
United India Insurance Company Ltd. }
Navi Peth, Solapur. }

....Respondents

Mr.R.S. Alange, for the Appellant.

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Mr.Ujwal A. Agandsurve a/w Mr.Shivram A. Gawade, for Respondent Nos.1 and 2.

Ms.Sneha Dwivedi, for Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th JULY 2025

ORAL JUDGMENT :

. This Appeal is preferred for enhancement of compensation by the Appellants-Claimants.

2. It is contention of the learned counsel for the Appellants-Claimants that, the deceased was an agriculturalist and he was getting income of Rs.3 lakhs per year from the agricultural work and he was also doing milk business from which he was getting Rs.10,000/- per month. The witness has been examined to prove the said fact. The Tribunal has considered notional monthly income at Rs.6,000/-, which is on lower side. The learned counsel further submitted that, the Tribunal has awarded consortium amount on lower side. The Tribunal has considered age of the deceased at 55 years, it should be 48 years. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the

Respondent-Insurance Company that, no evidence is produced on record to prove the income of the deceased. To prove the income of the deceased the witnesses have been examined by the Claimants, they have stated about income of son of the deceased and not the deceased. The PW-2 has stated about income of the deceased from milk business. Accordingly, the Tribunal has considered notional monthly income of deceased at Rs.6,000/- per month, which is proper. The learned counsel further submitted that, small portion of land was standing in the name of the deceased. The Tribunal has passed well reasoned order, no interference is required in it, and requested to dismiss the Appeal.

4. The learned counsel for Respondent Nos.1 and 2 submit that, appropriate order be passed.

5. I have heard all learned counsel's. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Solapur.

6. To prove the income of the deceased, the Claimants have examined the Claimant No.1-Lalita Mohan Mane at Exhibit-20. She has stated that, her husband was attending

agricultural affairs and was doing milk business and he was earning Rs.3 lakhs per annum and Rs.30,000/- from milk business respectively. In cross-examination, suggestion was given to her that, she has been claiming false income of the deceased for which she has denied. To prove the income, the Claimants have examined Mr.Satish Khochare at Exhibit-30, he has stated that, he collects the milk from farmers and send it to dairy. The deceased was supplying milk daily to him and he was getting around Rs.1,500/- to Rs.2,000/- for 8 to 10 days. In cross-examination, he has admitted that as per record, name of son of the deceased is mentioned though, the Claimants have examined PW-3, 4, and 5 to prove the income, but in the evidence of these witnesses, the name of son of deceased has been mentioned.

7. While dealing with the issue of income of the deceased, the Tribunal has observed that, the Claimant's have not proved the income of the deceased from agricultural and milk business and on the basis of rate of wages prevalent at that time, the Tribunal has considered notional monthly income of the deceased at Rs.6,000/- per month. I am unable to understand the

observations of the Tribunal as the Claimant No.1 has categorically stated that, the deceased was doing agricultural work. The PW-2 has stated that, the deceased was supplying milk to him. The Claimant's have produced 7/12 extracts to prove that the land was standing in the name of the deceased. The deceased was maintaining family of five persons. At the time of the accident, he was 48 years old. Considering these facts, I am considering notional monthly income of the deceased at Rs.9,000/- per month.

8. The Tribunal has awarded consortium amount on lower side. As per view of Hon'ble Apex Court in the case of *Magma General Insurance Co. Ltd. vs. Nanu Ram*¹, each Claimant is entitled for Rs.48,000/- as consortium amount and Rs.18,000/- for loss of estate and Rs.18,000/- for funeral expenses. There are five Claimants. The Tribunal has considered age of the deceased at 55 years. The Aadhar card produced on record shows that, at the time of the accident, the deceased was 48 years old. The Claimants are entitled for 25% future prospects

1 *2018 ACJ 2782 (SC)*

and proper multiplier is 13.

9. Considering the above calculations, the Claimant's are entitled for following compensation.

Particulars	Amount
Monthly Income Rs.9,000/- x 12	Rs.1,08,000.00
Add : Future Prospects 25%	Rs.27,000.00

	Rs.1,35,000.00
Multiplier 13	Rs.17,55,000.00
Deduction 1/4th	Rs.4,38,750.00
Add : Consortium (48000 x 4)	Rs.1,92,000.00
Add: Funeral Expenses	Rs.18,000.00
Add : Loss of Estate	Rs.18,000.00
Total	Rs.15,44,250.00
Less : Amount granted	Rs.6,05,000.00
Enhanced Amount	Rs.9,39,250.00

10. In view of above, I pass following order.

ORDER

(i) The Appeal is allowed.

(ii) The Claimants are entitled for enhanced amount Rs.9,39,250/- @ 7.5% per annum from date of the filing of the Claim Petition till realization of

the amount.

(iii) The Respondent-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks after receipt of this order.

(iv) The Claimants shall pay deficit Court Fees on enhanced amount, as per Rules.

(v) Record and Proceedings be sent back to the Tribunal.

(vi) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)