

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1270 OF 2025**

1. Rahibai Prashant Labade
Age-31 years, Occ: Household
2. Shubra Prashant Labade
Age-12 years, Occ-Education
3. Sindhu Prashant Labade
Age-9 years, Occ-Education
4. Sakshi Prashant Labade
Age-9 years, Occ-Education
5. Kanchan Bharat Labade (Dead)
Age-55 yrs, Occu-Household
6. Bharat Yashwant Labade
Age-64 Years, Occu-Nil

Appellant nos. 2, 3 & 4 being
minor through their mother
appellant no. 1
All R/O- 246, Siddheshwar Nagar,
Majrewadi, Solapur – 413 003

....Appellants

Versus

1. Venkatesh Bhimrao Landage
Age-42 years, Occ- Driver
R/O – Navin Zopadpatti, Gulhali
Tal-Tuljapur, Dist.-Osmanabad
2. Shridhar Dinesh Jangam
Age-44 Years, Occu-Business
R/o – Madare Kumta,
Tal-South Solapur, Dist- Solapur.
3. The New India Assurance
Div. Office Park Chowk, Solapur.

....Respondents

Mr. R. S. Alange Advocate for the Appellants
Ms. S. S. Dwivedi for respondent no. 3

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th OCTOBER, 2025.

ORAL JUDGMENT:

1. This appeal is preferred for enhancement of compensation against the impugned Judgment and Order passed by the Motor Accident Claims Tribunal, Solapur (For short 'Tribunal').

2. It is contention of learned counsel for the appellant-claimants that deceased was driver and earning Rs. 15,000/- per month but the Tribunal has considered notional income of the claimant as Rs. 7000/- per month which is on lower side. Learned counsel further submitted that the Tribunal has awarded consortium amount on lower side and requested to allow the appeal.

3. It is contention of the learned counsel for the insurance company that nothing is produced on record to show that deceased was serving as driver. The employer of the deceased was not examined to prove his income. The Tribunal has passed well reasoned order no interference is required in it. Hence, requested to dismiss the appeal.

4. I have heard both learned counsels, perused impugned Judgment and Order passed by the Tribunal. To prove the income of

the deceased, the claimants have examined the claimant no. 1-wife of deceased, Smt. Rahibai Labade at Exhibit 24. She has stated that her husband was 35 years old at the time of incident. He was working as driver and he used to get monthly salary of Rs. 15,000/- and Rs. 100/- day Bhatta. He was maintaining family of seven members. In cross-examination, she has admitted that she has no documentary evidence to show that deceased was getting Rs. 15,000/- monthly salary and day Bhatta of Rs. 100/-. While dealing with issue of income of the deceased, the Tribunal has observed that no evidence is produced on record to show that the deceased was earning Rs. 15,000/- per month, in addition Rs. 100/- Bhatta per day. The employer of the deceased is not examined to prove the service of the deceased. On that ground, the notional monthly income of the deceased is considered at Rs. 7000/-. I am unable to understand the observations of the Tribunal. It is specific case of the claimants that the deceased was working as driver. The driving licence of the deceased is produced on record. It is at Exhibit 51 which shows that the deceased was driver. The deceased was skilled worker. He was maintaining family of seven members but this fact is not considered by the Tribunal. Considering the age of the deceased as well as the fact that he was driver, I consider monthly income of the deceased at

Rs. 15,000/-. I am not considering Bhatta of Rs. 100/- per day. 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 claimants are entitled for 40% future prospects. 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, 2018 ACJ 2782 (SC)*, each claimant is entitled for consortium amount of Rs.48,000/-, Rs. 18,000/- for loss of estate and Rs. 18,000/- for funeral expenses.

5. Considering the above calculations, the claimants are entitled for following compensations.

Monthly income	Rs. 15,000/-
Yearly income	Rs. 1,80,000/-
Add 40% future prospects	Rs. 72,000/-
Total	Rs. 2,52,000/-
Less $\frac{1}{4}$ for personal deduction	Rs. 63,000/-
Total	Rs. 1,89,000/-
Multiplier 15 (Rs. 1,89,000/- X 15)	Rs. 28,35,000/-
Consortium Rs. 48,000/- X 6 (claimants)	Rs. 2,88,000/-
Loss of Estate	Rs. 18,000/-
Funeral Expenses	Rs. 18,000/-
Total compensation	Rs. 31,59,000/-
Less Awarded by the Tribunal	Rs. 15,53,000/-
Enhanced amount	Rs. 16,06,000/-

6. In view of above, I pass the following order:

ORDER

I. The appeal is allowed.

II. The claimants are entitled for enhanced compensation of **Rs. 16,06,000/-** at 7.5% interest per annum from the date of filing the claim petition till realisation of the amount.

III. The Respondent No. 3 Insurance Company shall deposit enhanced compensation amount alongwith accrued interest thereon, within period of 8 weeks from the date of receipt of this order.

IV. The claimants are permitted to withdraw the deposited amount alongwith accrued interest thereon.

V. The claimants shall pay deficit Court fees on enhanced amount, as per Rule.

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

7. All pending applications, if any, also stand disposed of.

(SHIVKUMAR DIGE, J.)

IRESH
MASHAL

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IRESH MASHAL
Date: 2025.10.31
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