

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1038 OF 2016**

The New India Assurance Co. Ltd. Divisional
Office, Satara.

Address-LIC Building, Sadar Bazar, Satar

....Appellant

Vs.

1. Smt. Chhaya Mahesh Gophane
Aged 28 years, Occ: Household work

2. Kum. Vibhuti Mahesh Gophane
Aged 8 years; Occupation: Nil

3. Kum. Pranjali Mahesh Gophane
Aged 6 years; Occupation: Nil

4. Sou. Laxmi Rajaram Gophane
Aged 57 years; Occupation: Household

5. Rajaram Nivrutti Gophane
Aged 65 years; Occupation: Agriculture
R/o: At Ganeshwari, Post Vaduj
Taluka-Khatav, Dist-Satara

6. Shri. Sanjay Shivaji Lavand
Age-Adult, Occupation-Transport
R/o. At Post- Duraj, Taluka-Khatav,
Dist-Satara

....Respondents

Mr. Pravin D. Alawekar for the appellant
Mr. Yuvraj Narvankar for the respondents

CORAM : SHIVKUMAR DIGE, J.

DATE : 27th NOVEMBER, 2025.

ORAL JUDGMENT:

1. This appeal is preferred by the appellant-insurance company against the Judgment and Order dated 15th October 2015 passed by

Motor Accident Claims Tribunal, Satara, at :Vaduj (fort short 'the Tribunal').

2. It is contention of learned counsel for the appellant that the Tribunal has awarded 50% future prospects, it should be 40% as deceased was doing business. The Tribunal has granted interest at 9% which is on higher side. Learned counsel further submitted that income from agricultural business at Rs. 4,72,500/-, it should be Rs. 4,05,000/-. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondents-claimants that the Tribunal has passed well reasoned order and no interference is required in it. The consortium amount is awarded on lower side. Hence, requested to dismiss the appeal.

4. I have heard both learned counsel. Perused the impugned Judgment and Order passed by the Tribunal. It is claimants' case that the deceased was driver. He owned tractor and he was doing business, he was earning Rs. 4,72,500/- per annum from said business. He was also getting income from agriculture. While dealing with the issue of income, the Tribunal has considered income of the deceased at Rs. 10,000/- per month from tractor business and Rs. 50,000/- per annum from agricultural business. In my view, the Tribunal has considered proper income from both business as the

deceased was driver, he owned tractor and agricultural land was standing in his name. Hence, I do not find infirmity in it. The Tribunal as awarded 50% future prospects. It should be 40%. The Tribunal has awarded 9% interest on compensation amount. It should be 7.5%. 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 Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)**, each claimant is entitled Rs. 40,000/- for consortium amount of, Rs. 15,000/- for loss of estate and Rs. 15,000/- for funeral expenses.

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

Monthly income	Rs. 10,000/-
Yearly income	Rs. 1,20,000/-
Add 40% future prospects	Rs. 48,000/-
Total	Rs. 1,68,000/-
Less $\frac{1}{4}$ for personal deduction	Rs. 42,000/-
Total per annum	Rs. 1,26,000/-
Multiplier 18 (Rs. 1,26,000/- X 18)	Rs. 22,68,000/-
Agriculture income:	
Loss of dependency	Rs. 50,000/- p.a.
Add future prospects 40%	Rs. 20,000/-
Total	Rs. 70,000/-
Less $\frac{1}{4}$ personal deduction	Rs. 17,500/-
Total income	Rs. 52,500/-
Less income deducted for crop share basis	Rs. 30,000/-

Total	Rs. 22,500/-
Multiplier 18 X (Rs. 22500)	Rs. 4,05,000/-
Total agriculture income alongwith tractor business income	Rs. 22,68,000/- + Rs. 4,05,000/- = Rs. 26,73,000/-
Consortium Rs. 40,000/- X 5 (Claimants)	Rs. 2,00,000/-
Loss of Estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Total compensation	Rs. 29,03,000/-
Less awarded by the Tribunal	Rs. 29,60,000/-
Balance amount	Rs. 57,000/-

6. In view of above, I pass following Order:

ORDER

I. The Appeal is partly allowed.

II. The appellant insurance company is permitted to withdraw excess amount of Rs. 57,000/- at the interest of 9% and excess interest amount at 1.5% from deposited amount.

III. The statutory amount be transferred to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

IV. Record and proceedings be sent back to the Tribunal.

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

(SHIVKUMAR DIGE, J.)

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