

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

FIRST APPEAL NO.2392 OF 2008

- | | | |
|--|---|---|
| 1. Sunanda Machindranath Patil |] | |
| Age-29 years, Occ: Household |] | |
| |] | |
| 2. Punnayashlok M. Patil |] | |
| Age-8 years, Occ: Education |] | |
| |] | |
| 3. Vishwajeet M. Patil |] | |
| Age-6 years, Occ: Education |] | |
| |] | |
| 4. Parwati Shankar Patil |] | |
| Age-Major, Occ: Household |] | |
| All R/at Mouje Sangaon, Taluka-Kagal, |] | |
| District-Kolhapur |] | |
| (Appellant Nos.2 and 3 are minors, hence |] | |
| thr. Her natural guardian mother i.e. |] | |
| Appellant No.1 |] | ... Appellants
(Original
Claimants) |

Versus

- | | | |
|---|---|--|
| 1. The Karnataka State Road Transport |] | |
| Corporation |] | |
| The Depot Manager, |] | |
| S.T. Stand, Jamkhandi Depot, Karnataka |] | |
| State |] | |
| |] | |
| 2. The Internal Insurance Fund |] | |
| Karnataka State Road Transport |] | |
| Corporation, Bangalore Depot, At Bangalore, |] | |
| Summoned to Depot Manager, S.T. Stand, |] | |
| Jamkhandi Depot, Karnataka. |] | |
| |] | |
| 3. Shri. Shivaji Vasant More |] | |

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Age-Major, Occ: Car owner,	]	
R/at Kaneriwadi, Taluka-Karvir,	]	
District-Kolhapur	]	
	]	
4. The New India Assurance Co. Ltd.	]	
At & Post-1036, 'E' Rajaram Road,	]	
Kolhapur, District-Kolhapur.	]	
	]	... Respondents
		(Orig.
		Opponents
		Nos.1 to 4.

Mr. S. G. Thorat, Advocate for the Appellants.
Mr. C. M. Lokesh, Advocate for Respondent No.1.
Ms. Ketki Gokhale i/b Ms. Shalini Shankar, Advocate for Respondent No.4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 25th JUNE, 2025.

JUDGMENT. :

1. By this appeal, the Appellants - Claimants are seeking enhancement of compensation.
2. It is contention of learned counsel for the Appellants - Claimants that the deceased was sole earning member of the Appellant's family. He was doing farming and he was selling stamps in Kagal Tahsil. He was earning Rs.5000/- per month, but the Tribunal has considered his income at Rs.15,000/- per year, which is

on lower side.

Learned counsel further submitted that the deceased was maintaining family of four persons. The Tribunal should have considered his monthly income at Rs.5,000/- per month.

Learned counsel further submitted that the Tribunal has not awarded consortium amount, it be awarded. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent – Corporation that no evidence is produced on record to prove the income of the deceased. On the basis of evidence produced on record, the Tribunal has considered proper income of the deceased. The Tribunal has passed well reasoned order, and no interference is required in it, and requested to dismiss the appeal.

4. Learned counsel for the Respondent – Insurance Company submitted that the Tribunal has passed well reasoned order, and no evidence is produced on record to prove the income of the deceased, and requested to dismiss the appeal.

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

6. To prove the income of the deceased, the Claimant No.1 has examined herself. She has stated that her husband was doing farming, he was taking cash crops from the said farm and was doing milk business and he was selling stamp papers at Tahsil Kagal.

While deciding the issue of income of the deceased, the Tribunal has observed that no evidence is produced on record to prove that the deceased was earning Rs.5000/- per month. On that ground, the Tribunal has considered monthly income of the deceased at Rs.15,000/- per year as per Section 163 A of the Motor Vehicle Act, 1988 (for short "MV Act").

7. I am unable to understand the observations of the Tribunal as the claim petition was filed under Section 166 of the Motor Vehicle Act, 1988. The Tribunal should have given weightage to the evidence of the Claimant No.1. The deceased was maintaining his family of four persons. Considering these facts, I am considering Rs.4,000/- as monthly income of the deceased. The Tribunal has not awarded consortium amount. As per view of Hon'ble Apex Court in the case of *National Insurance Co. Ltd. Vs. Pranay Sethi 2017 ACJ 2700 (SC)*, the claimants are entitled for 40% future prospects. 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 Rs.48,000/- consortium amount Rs.18,000/- for loss of estate and Rs.18,000/- for funeral expenses.

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

Loss of income	Rs.4,000/-
Add: 40% future prospects	Rs.1600/-
Total	Rs.5,600/-
Less: 1/4th dependency.	Rs.1400/-
Total monthly income	Rs.4,200/-
Annual Income (Rs.4,000/- X 12)	Rs.50,400/-
Multiplier 17	Rs.8,56,800/-
Consortium Rs.48,000/- X 4 (Claimants)	Rs.1,92,000/-
Loss of estate	Rs.18,000/-
Funeral Expenses	Rs.18,000/-
Total compensation	Rs.10,84,800/-
Loss awarded by the Tribunal	Rs.1,70,000/-
Enhanced amount	Rs.9,14,800/-

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

ORDER

- i. The Appeal is allowed.
- ii. The Appellants/Claimants are entitled for enhanced amount of **Rs.9,14,800/-** @ 7.5% interest per annum from the date of filing claim petition till realization of the amount. Out of this amount

Rs.2,28,000/- is consortium amount, the Claimants are entitled interest on this amount from 1st November, 2017, till realization of the amount.

iii. The Respondent No.1 – Corporation and RespondentNo.4 – Insurance Company shall deposit the enhanced amount each 50% along with accrued interest thereon, within four weeks after receipt of this order.

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

v. The Appellants/Claimants shall pay deficit Court fees on enhanced amount, as per Rules.

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

. The appeal is allowed in the aforesaid terms and stands disposed of.

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

(SHIVKUMAR DIGE, J.)