IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1755 OF 2008

1.	Lalita Shamrao Patil, Age: 44 years, Occ: Household.	]]
2.	Nandkumar Shamrao Patil, Age: 22 years, Occ: Education.	]]
3.	Lina Shamrao Patil, Age: 17 years, Occ: Education.	]]
	All residing at Plot No.92, Varsha Nagar, Kolhapur.	]]
		.... **Appellants**

Versus

1.	Arvind Rajaram Shinde, Adult, Occ: Transport. R/at. Datta Nagar, Ichalkaranji.	]]]
2.	United India Insurance Co. Ltd. Divisional Office, Station Road, Near Congress Bhavan, Kolhapur.	]]]
		.... **Respondents (Original Opponents)**

Mr. Jayant J. Bardeskar, Advocate for the Appellant.
Ms. Sneha S. Dwivedi, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th JULY, 2025.

JUDGMENT. :

1. This appeal is preferred by the Appellants/Claimants for enhancement of compensation.

2. It is contention of learned counsel for the Appellants that, deceased was filing Income Tax Returns. But, the Tribunal has not considered this fact and has considered income of the deceased on lower side. Learned counsel further submitted that, future prospects is not given, and consortium amount is awarded, on lower side. Learned counsel further submitted that, the Tribunal has applied multiplier of 8, it should be 9. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent - Insurance Company that, at the time of filing claim petition, the Respondent No.2 was major, and Respondent No.3 daughter was 17 years old. They must have been married and living separately, therefore, they are not entitled for compensation. 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 counsel. Perused the judgment and order passed by the Motor Accident Claims Tribunal, Kolhapur

(for short, “the Tribunal”).

5. It is Claimants’ case that the deceased was running Jinendra Industries at Gokul Shirgaon for about 10 years, and his yearly income was more than Rs.1,50,000/-. In the year 1999, his income was Rs.3,88,000/-. To prove the income of the deceased, the Claimant No.1 - Lalita has examined herself at Exhibit – 17. She has stated that, the deceased was running Jinendra Industries at Gokul Shirgaon, it is registered Small Scale Industry. The registration Certificate of Industry is at Exhibit 24. She has produced the Income Tax Returns, it is at Exhibit - 29. Considering evidence on record, the Tribunal has considered yearly income of the deceased at Rs.60,000/-. In my view, it is on lower side. It is settled principle of law that, if Income Tax Returns are produced on record, the Tribunal shall consider last year’s Income Tax Returns. The last year i.e. 1998-1999 Income Tax Returns shows that net profit of deceased was of Rs.1,16,730/- it is at Exhibit – 29, hence, I am considering this income as yearly income of the deceased. At the time of accident, the deceased was 58 years old, hence the Claimants are entitled for 10% future prospects. The Tribunal has applied multiplier of 18, as per the age of the deceased proper multiplier is 9. The Tribunal has

awarded consortium amount on lower side. As per view of Hon'ble Apex Court in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)***, each claimant is entitled for Rs.48,000/- as consortium amount. There are three Claimants, so total amount comes to Rs.1,44,000/-.

8. The Tribunal has fixed 50% negligence of the deceased. The Claimants have not disputed this fact. Hence, the Claimants are entitled for enhanced amount of Rs.3,08,718/-.

9. While awarding compensation, the Tribunal has awarded 20% compensation out of total compensation to the Appellant No.2 and 20% to Appellant No.3. Learned counsel for the Appellant fairly submitted that Appellant Nos.2 & 3 cannot be considered as dependent as they have been married, and living separately, hence they are not entitled for compensation.

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

Yearly Income	Rs.1,16,733/-
Add: 10% future prospects	Rs.11,673/-
Total	Rs.1,28,406/-
Multiplier 9 (Rs.1,28,406/- X 9)	Rs.11,55,654/-
Less 1/3 deduction	Rs.3,85,218/-
Total income	Rs.7,70,436/-

Consortium Rs.48,000/- X 3 (Claimants)	Rs.1,44,000/-
Funeral Expenses	Rs.18,000/-
Loss of Estate	Rs.18,000/-
Total compensation	Rs.9,50,436/-
50% compensation	Rs.4,75,218/-
Less Claim granted	Rs.1,66,500/-
Enhanced amount	**Rs.3,08,718/-**

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

ORDER

i. The Appeal is allowed.

ii. The Appellant No.1 is entitled for enhanced amount of **Rs.3,08,718/-** @ 7.5% interest per annum from the date of filing claim petition, till realization of the amount.

iii. The Appellant No.1 is only permitted to withdraw the deposited amount along with accrued interest thereon.

iv. The Appellant Nos.2 and 3 are not entitled for any compensation from enhanced amount.

v. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rules.

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

. In the aforesaid terms, the Appeal is allowed and disposed off.

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

(SHIVKUMAR DIGE, J.)