

Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 1835 OF 2024

HARISH
VITHAL
CHAUDHARI

Digitally signed
by HARISH
VITHAL
CHAUDHARI
Date:
2025.11.27
19:45:27
+0530

- | | | |
|--|---|---------------|
| 1. Shakuntala w/o Jaysingh Rajput |] | |
| Age : 68 years, Occ : Household |] | |
| R/o. Hotgi Station, Tq. South Solapur, |] | |
| District-Solapur |] | |
| | | ... Appellant |

Versus

- | | | |
|--|---|-----------------|
| 1. Shashikant s/o Kashiram Shingade |] | |
| Age: 46 years, Occ : Business |] | |
| R/o. Hotgi Station, near Temple of God Devi, |] | |
| Tq. South Solapur, District-Solapur |] | |
| 2. The Divisional Manager, |] | |
| The New India Assurance Co. Ltd |] | |
| Hutatma Smurti Mandir Complex, |] | |
| Park Chowk, Solapur. |] | |
| | | ... Respondents |

Mr. R. S. Alange a/w V. s. Kupawade for the Appellants.
Ms. Swati Sinha (through V. C.) for Respondent No. 2

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th OCTOBER, 2025.

JUDGMENT. :

1. By this appeal, the appellant/claimant is seeking enhancement of compensation.

1/5

This judgment is corrected pursuant to speaking to minutes order dated 20th November, 2025.

2. It is contention of learned counsel for the appellant that the deceased was driver. The employer has been examined to prove the income of the deceased, but the Tribunal has considered monthly income of the deceased at Rs. 8,000/- per month, which is on lower side. Learned counsel further submitted that the consortium amount awarded by the Tribunal is on lower side. Hence, requested to allow the appeal.

3. It is the contention of learned counsel for respondent No.2- Insurance Company that no evidence is produced on record to prove the monthly income of the deceased. The evidence produced on record by the deceased is not reliable. No muster role or salary slips are produced on record about the salary of the deceased. She further submits that the judgment and order passed by the Tribunal is well-reasoned. No interference is required in it, and requested to dismiss the appeal.

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

5. To prove the income of the deceased, the appellant has examined (PW-1) mother of the deceased. She has stated that

deceased was doing private service as driver with Shinde Transport and getting salary of Rs.15,000/- per month. To prove the salary of the deceased, the appellant has examined Somnath Shinde (PW-2) at Exhibit-36. He has stated that he does transport business. The deceased was working with him as a driver and he was paying him Salary of Rs.15,000/- per month. The salary slip is at Exhibit-37. In cross-examination, he stated that he has no other document except the salary slip to show that he was paying salary of Rs.15,000/- per month to the deceased.

6. While dealing with the issue of income, the Tribunal has observed that there is no deduction made in the salary slip. On that ground, the Tribunal has considered monthly income of the deceased at Rs. 8,000/- per month. I am unable to understand the observation of the Tribunal as the deceased was driver and PW-2 has stated that he was paying salary of Rs. 15,000/- per month to the deceased. There is no reason to disbelieve the evidence of PW-2. Moreover, the deceased was skilled worker and he was maintaining his family. Considering these facts, I am considering the monthly income of the deceased at Rs. 15,000/- per month.

7. While awarding compensation, the Tribunal has not awarded

future prospects. 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 claimant is entitled for 40% future prospects. 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 Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)*, claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate.

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

Monthly Salary	Rs.15,000/-
Annual Income	Rs.1,80,000/-
Add: 40% future prospects	Rs.72,000/-
Total income	Rs.2,52,000/-
Multiplier 15 (Rs.2,52,000/- X 15)	Rs.37,80,000/-
Deduction 50%	Rs. 18,90,000/-
	Rs. 18,90,000/-
Loss of consortium Rs.48,000/- (deceased)	Rs.48,000/-
Funeral Expenses	Rs.18,000/-
Loss of Estate	Rs.18,000/-
Total amount of compensation	Rs.19,74,000/-
Less awarded by the Tribunal	Rs. 10,78,000/-
Enhanced amount	Rs.8,96,000/-

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

ORDER

- I. Appeal is allowed.
 - II. The appellant/claimant is entitled for enhanced compensation of **Rs.8,96,000/-** @ 7.5% interest from the date of filing claim petition till realization of the amount.
 - III. The Respondent No.2 - Insurance Company shall deposit the enhanced compensation amount along with accrued interest thereon, within six weeks after receipt of this order.
 - IV. The appellant/claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - V. The claimant shall pay the deficit Court fees on enhanced amount, if any, as per Rule.
 - VI. Record and Proceedings be sent back to the Tribunal.
10. In view of the above, the appeal is allowed and disposed off.
 11. All pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)