

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 63 OF 2021

1. Smt. Surekha Deepak Gaikwad
Age : 44 years, Occ: Household.
2. Nachiket Deepak Gaikwad
Age : 20 years, Occ: Education.
3. Deepak Sudam Gaikwad,
Age 48 years, Occ. Nil,
All are R/o. Chinchale, Tal. Atpadi,
Dist. Sangli. ... Appellants

versus

1. Prabhuraj Jayaram Chavan
(Owner & Driver),
R/o. Khanapur, Tal. Atpadi, Dist. Sangli.
2. Branch Manager, United India General
Insurance Company Ltd.,
Samarth Mason, Mahaveer Nagar,
Vakharbhag, Dist. Sangli.
3. Vinay Dilip Salake,
Age: Major, Occ. Business,
R/o. C.S.No.43, Pathar Thube Nagar,
Chandan Nagar Road, Khardi Bypass,
Pune.
4. Branch Manager,
ICICI Lombard General Insurance Co. Ltd.
Hall G-2, Onkar Plaza, Bagal Chawk,
Near ICICI Bank, Kolhapur.
5. Sachin Duryodhan Jankar,
Age: 30 years, Occ. Mechanic,
R/o. Kharsundi, Tal. Atpadi,
Dist. Sangli. ... Respondents

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Mr. Avesh Ghadge i/b Mr. Akshay Kulkarni, for the Appellants.

Mr. Siddharth Shitole, for the Respondent No.1.

Mr. Rahul Mehta i/b KMC Legal Venture, for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th JULY, 2025.

JUDGMENT:

1. By this appeal, the appellants-claimants are seeking enhancement of compensation.

2. It is the contention of learned Counsel for the appellants-claimants that the deceased was taking education in Civil Engineering and he was working as RCC Designer and Site Supervisor with Gayatri Construction Firm, Vita and was getting salary of Rs.12,000/- per month. But, the Tribunal has considered Rs.9,000/-, which is on lower side. Learned Counsel further submitted that, the deceased was salaried employee. Hence, future prospects should be 50%. Learned Counsel further submitted that the Tribunal has awarded interest at 6% which is on lower side and consortium amount is also awarded on lower side. Learned Counsel further submitted that the deceased was a pillion rider on

motorcycle but the Tribunal has considered his negligence at 20%, which is erroneous. Hence, requested to allow the appeal.

3. It is the contention of the learned Counsel for the respondent-Insurance Company that no evidence is produced on record to prove the income of deceased. The accident occurred due to the negligence of the rider of motorcycle on which deceased was travelling. 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 Motor Accident Claims Tribunal, Sangli (for short “the Tribunal”)

5. It is claimant’ case that on 13th June 2016, deceased Aniket Gaikwad was pillion rider on the motorcycle and Sachin Jankar was riding the motorcycle. At 1.45 p.m. on Khanapur -Vita Road, when the said motorcycle came near village Dhondgewadi, suddenly a Innova Car bearing No. MH-10-AY-9291 came in a rash and negligent manner from opposite direction and dashed to the motorcycle. Due to said dash, the deceased sustained injuries and died. The offence was registered against the rider of motorcycle.

6. To prove the income of deceased, the claimants have examined claimant No.1-mother of the deceased. She has stated that the deceased was a Diploma Civil Engineer and he was working as a Site Supervisor at Gayatri Construction Firm, Vita and he was getting salary of Rs.15,000/- per month. To prove the income of the deceased, the claimants have examined PW-3 Adhikrao Kasbe, the clerk of Gayatri Construction Firm. He has stated that the deceased was working with their company as a Site Supervisor and they were paying Rs.12,000/- to Rs.15,000/- per month. The salary vouchers are at Exh. 65 colly. While dealing with the issue of income, the Tribunal has observed that the deceased was Diploma Civil Engineer and the prevailing salary in the year 2016 in any construction firm was Rs.9,000/- per month. On that ground, the Tribunal has considered monthly income of the deceased at Rs.9,000/-. I am unable to understand the observations of the Tribunal as the deceased had completed Diploma in Civil Engineering and he was working as Site Supervisor and PW-2 has categorically stated that they were paying Rs.12,000/- to Rs.15,000/- per month as salary to the deceased. The salary of each construction company is different. This fact should have been considered by the Tribunal. Considering evidence on record and considering educational qualification of the deceased, I am considering Rs.11,000/- per month as salary of the deceased. The Tribunal has fixed

20% contributory negligence of the deceased. I am unable to understand the observations of the Tribunal as the deceased was pillion-rider, so question of his contributory negligence would not arise. Hence, I am setting aside the observations of the Tribunal fixing 20% contributory negligence of the deceased. The Tribunal has awarded 40% amount as future prospects, it should be 50% as the deceased was salaried employee. Each claimant is entitled for consortium amount of Rs.48,000/-, Rs.18,000/- for loss estate and Rs.18,000/- for funeral expenses. The Tribunal has awarded rate of interest at 6% on compensation amount. In my view, it is on lower side. Hence, I am considering it at Rs.7.5% per annum.

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

Particulars	Rs.	Amount
Monthly Income	Rs.	11,000/-
Add: 50% future prospects	Rs.	5,500/-
Total income	Rs.	16,500/-
Less: $\frac{1}{2}$ personal deduction	Rs.	8,250/-
Total monthly income	Rs.	8,250/-
Annual Income (Rs.8,250/- X 12)	Rs.	99,000/-
Multiplier 18 (Rs.99,000/- X 18)	Rs.	17,82,000/-
Consortium (Rs.48,000/- x 2 (claimants))	Rs.	96,000/-
Funeral Expenses	Rs.	18,000/-
Loss of Estate	Rs.	18,000/-

Total Compensation	Rs.	19,14,000/-
Less awarded by the Tribunal	Rs.	11,98,800/-
Enhanced amount	Rs.	7,15,200/-

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

ORDER

- (1) The appeal is allowed.
- (2) The claimants are entitled for compensation awarded by the Tribunal at 7.5% per annum instead of 6% per annum from the date of filing claim petition till realization of the amount.
- (3) The claimants are entitled for enhanced compensation amount of Rs.7,15,200/- at the rate of Rs.7.5% per annum from the date of filing claim petition till realization of the amount. Out of this amount, Rs.1,32,000/- is consortium amount, the claimants are entitled @ 7.5% interest per annum on this amount from 1st November 2017 till realization of the amount.
- (4) The respondent -Insurance Company shall deposit the enhanced amount along with accrued interest thereon and enhanced amount of interest on compensation amount awarded by the Tribunal within four weeks from

the receipt of this order.

- (5) The claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.
- (6) The claimants shall pay deficit court fees on enhanced amount, if any, as per Rule.
- (7) Record and Proceedings be sent back to the Tribunal.
- (8) Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)