IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 894 OF 2022

Reliance General Insurance Company Ltd.
1st Floor, Pushpam Plaza,
Todiwala Road, Pune. ...**Appellant**

Versus

1. Jyoti Pankaj Nikode
Age : 37 years, Occ : Household,

2. Samarth Pankaj Nikode
Age : 15 years, Occ : Education,

3. Sarthank Pankaj Nikode
Age : 12 years, Occ : Education,
Nos.2 & 3 minor through their
guardian mother Respondent No.1.

4. Sudhakar Ramchandra Nikode
(Deceased deleted)

5. Sanjivani Sudhakar Nikode
Age : 63 years, Occ : Nil,
Nos.1 to 5 residing at
207, Sadashiv Peth, Satara

6. Santosh Sidharam Pandhare
Age : Adult, Occ : Vehicle owner
Laxmi Nagar, Yerawada,
Pune – 411 006.

7. Shahaji Ramchandra Uttekar
Age : Adult, Occ : Business,
Residing at Pirwadi, Post Krishnagar,
Taluka, District : Satara

8. Samadhan Shivaji Salunkhe
Age : 37 years,, Occ : Agriculturist,
Residing at Khed Malvane,
Taluka Pandharpur,
District : Solapur ...Respondents

WITH
CROSS OBJECTION (ST) NO. 23579 OF 2024
IN
FIRST APPEAL NO. 894 OF 2022

Reliance General Insurance Company Ltd.
1st Floor, Pushpam Plaza,
Todiwala Road, Pune. ...**Appellant**

Versus

1. Jyoti Pankaj Nikode
Age : 37 years, Occ : Household,

2. Samarth Pankaj Nikode
Age : 15 years, Occ : Education,

3. Sarthank Pankaj Nikode
Age : 12 years, Occ : Education,
Nos.2 & 3 minor through their
guardian mother - No.1.

4. Sudhakar Ramchandra Nikode
(Deceased deleted)

5. Sanjivani Sudhakar Nikode
Age : 63 years, Occ : Nil,
All are R/at
207, Sadashiv Peth, Satara

6. Santosh Sidharam Pandhare
Age : Adult, Occ : Vehicle owner
Laxmi Nagar, Yerawada,
Pune – 411 006.

7. Shahaji Ramchandra Uttekar
Age : Adult, Occ : Business,
Residing at Pirwadi, Post Krishnagar,
Taluka, District : Satara ...Respondents

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Mr.Pandit Kasar for Appellant.

Mr.Vishwanath S. Talkute a/w Mr.Mahesh Bhosale, Mr.Pratik Bhojane & Ms.Sampada Patil for the Respondents.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 26th SEPTEMBER 2025

ORAL JUDGMENT :

1. This Appeal is preferred by the Appellant-Insurance Company against the Judgment and order passed by Motor Accident Claims Tribunal, Satara (for short "the Tribunal"). The Respondents-claimants also preferred an cross objection for enhancement of compensation. As both these matters are against the same Judgment and order, I am deciding this appeal and cross objection by this common Judgment.

2. It is contention of learned counsel for the Appellant – Insurance Company that the Tribunal has considered monthly income of the deceased at Rs.15,000/-without any evidence on record which is on higher side. Learned counsel further submitted that the driver of the offending vehicle was not holding effective and valid driving

Sajakali Jamadar

license at the time of accident. Accident occurred due to composite negligence but case was registered against the vehicle of the appellant which is erroneous. Hence, requested to allow the appeal.

3. It is contention of the learned counsel for the Respondents-claimants that the deceased was running mutton shop and earning Rs.60,000/- per month. He had employed one person in his mutton shop and was paying Rs.500/- per day to him but the Tribunal has considered monthly income of the deceased at Rs.15,000/- per month which is on lower side. It should be Rs.60,000/- per month. Hence, requested to allow the appeal filed by Respondents-Claimants and dismiss the appeal filed by the Appellant- Insurance Company.

4. I have heard both learned counsels, perused impugned Judgment and order. To prove the income of the deceased, the claimant No.1 - Jyoti Pankaj Nikode has examined herself. She has stated that her husband was running mutton shop and he was earning Rs.60,000/- per month from the said shop. She has produced the receipt issued by the Koregaon Agricultural Market Committee Satara showing purchase of goats for mutton shop. The claimants have also examined the employee PW-2 Maqsood Shaikh worker at mutton shop of the deceased. He has stated that he was working in the mutton shop of deceased and he was paying Rs.500/- per day to

him. The claimants have also examined witness Namdev Gofane at Exhibit-51, he has stated that the deceased was purchasing goats from him. Considering evidence on record the Tribunal has considered monthly income of the deceased at Rs.15,000/- per month. In my view it is on lower side. The deceased was running mutton shop and he had employed PW-2 as employee and paying Rs.500/- per day. It appears from record that the deceased had obtained loan from bank for running the said mutton shop and he had repaid the said loan. The Deceased was maintaining family of four persons. Considering these facts, I am considering monthly income of the deceased at Rs.17,000/- per month. Though, it is contention of learned counsel for the Insurance Company that no evidence is brought on record to show how much percentage of profit the deceased was earning from said shop. In my view, the deceased was running the mutton shop, so there is no account of selling of the mutton. The evidence of PW-2 is important, who was working in the mutton shop of the deceased and he was giving him Rs.500/- per day, which shows that the deceased was earning handsome amount from selling of the mutton. Though it is contention of learned counsel for the Insurance Company that driver of offending vehicle was not holding effective and valid driving license at the time of accident and it was composite negligence but no evidence is produced on record in that regard. Hence, I do not find merit in it. As per the amount of Rs.17,000/- per month, the claimants are entitled for following compensation.

Particulars	Amount
Monthly Income Rs.17,000 X 12 = 2,04,000/-	2,04,000/-
Future prospect 40%	81,000/-
Deduction towards personal expense ¼th	2,14,200/-
Multiplier 15 Rs.2,14,200 X 15 = 32,13,000/-	32,13,000/-
Consortium Rs.44,000/- X 4 (4 Claimants)	1,76,000/-
Loss of estate	16,500/-
Funeral expenses	16,500/-
Total Amount of Compensation	**34,22,000/-**
Less Awarded by the Tribunal	30,25,000/-
Enhanced Amount	**3,97,000/-**

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

ORDER

i. The First Appeal No.894 of 2022 is dismissed;

ii. Cross objection (St.) No.23579 of 2024 is allowed;

iii. The claimants are entitled for enhanced amount of **Rs.3,97,000/-** at the rate of 7% per annum from the date of filing claim Petition till realisation of amount. Out of this amount, **Rs.2,09,000/-** is consortium amount. The claimants are entitled @ 7% interest on this amount from 1st November 2017 till realisation of the amount;

iv. The Appellant - Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within four weeks from the date of receipt of this order;

v. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon;

vi. The statutory amount in appeal along with interest be transmitted to the Tribunal within thirty days. The parties are at liberty to withdraw it, as per rule;

vii. The claimants shall pay the deficit Court fees on enhanced amount, if any, as per Rule;

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

6. The appeal and cross objections are disposed off in the aforesaid terms.

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

(SHIVKUMAR DIGE, J.)