

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

FIRST APPEAL NO. 2063 OF 2005

The New India Assurance Co.ltd.
2420, General Thimayya Road,
Gulmohor Apartment, Pune 411 001.

...Appellant

Versus

1. Kalavati Vilas Jadhav And Ors.
Age 40 years, Occupation Household
 2. Vilas Bapu Jadhav,
age 50 years, Occupation Agriculture
 3. Kum Usha Vilas Jadhav
Age 21 years, Occupation : education
 4. Kum Lata Vilas Jadhav
Age 17 years, Occupation : education
 5. Sharad Vilas Jadhav
age 13 years, Occupation : education
Nos.4 & 5 minors, through their
Natural guardian father Vilas Bapu Jadhav
- All residents of Sultangade
Taluka Khanapur, District Sangli
Out of them, Nos.2 & 3 at present residents
of “Krishna Jewellers” Harbhat Road, Sangli
6. Sou. Bharti Vasant Misal,
age 24 years Occupation Household
Resident of Misal Pachegaon, taluka Sangola,
District Solapur.
 7. Bhagwan Vithal Sonatakke
age 23 years, occupation truck driving
Wasurli, taluka Osmanabad, District Osmanabad,

at present residing at Shriramnagar,
Taluka Haveli, District : Pune.

8. Tejasingh Rungadia,
Occupation : truck transport
R/o 47/2, Pune-Satara Road, Pune-9.

Ring Road, Dashmesh Repairing Works,
Tata Bandh, Raypur

9. Sanjay Shankar Waghmode (Dead)

10. Popat Baburao Shelke
age 35 years, occupation : Jeweller
R/o Shree Jewellers, Harbhat Road, Sangli.

11. National Insurance Co. Ltd.
(Policy No.501503/31/94-95/01/00784)
Jain Boarding Complex,
High School Road, Sangli

...Respondents

(Respondents Nos.1 to
6 are original applicants and
Respondent Nos.7 to 11 are
original Opp. No.1,2 and 4
to 6 respaly)

**WITH
CROSS OBJECTION (ST.) NO.26574 OF 2005
IN
FIRST APPEAL NO. 2063 OF 2005**

The New India Assurance Co.ltd.
2420, General Thimayya Road,
Gulmohor Apartment, Pune 411 001.

...Appellant

Versus

1. Kalavati Vilas Jadhav And Ors.
Age 49 years, Occupation Household

2. Vilas Bapu Jadhav,
age 59 years, Occupation Agriculture
3. Kum Usha Vilas Jadhav
Age 30 years, Occupation : education
4. Kum Lata Vilas Jadhav
Age 26 years, Occupation : education
5. Sharad Vilas Jadhav
age 22 years, Occupation : education

All residents of Sultangade
Taluka Khanapur, District Sangli
Out of them, Nos.2 & 3 at present residents
of “Krishna Jewellers” Harbhat Road, Sangli

6. Sou. Bharti Vasant Misal,
age 33 years Occupation Household
Resident of Misal Pachegaon, Taluka Sangola,
District Solapur.
7. Bhagwan Vithal Sonatakke
age 23 years, Occupation : Truck driving
R/o Wasurli, Taluka Osmanabad, District Osmanabad,
at present residing at Shriramnagar,
Taluka Haveli, District : Pune.
8. Tejasingh N. Rungadia,
Major, Occupation : truck transport
R/o 47/2, Pune-Satara Road, Pune-9.
Dashmesh Repairing Works, Ring Road,
Tata Bandh, Raypur
9. Sanjay Shankar Waghmode (Dead, Exh.72)
10. Popat Baburao Shelke
Age 44 years, occupation : Jeweller
R/o Shree Jewellers, Harbhat Road, Sangli.

11. National Insurance Co. Ltd.
Jain Boarding Complex,
High School Road, Sangli

...Respondents

(Respondents Nos.1 to 6 are original applicants and Respondent Nos.7 to 11 are original Opp. No.1, 2 and 4 to 6 resply.)

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Mr. Atharva R.B. i/by Ms. Poonam Mittal for Appellant Through V.C.

Ms. Vrunali Vilankar i/by Mr. Tejpal Ingale for Respondents.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 9th OCTOBER, 2025

ORAL JUDGMENT :

1. The Appellant - Insurance Company has preferred this appeal against the Judgment passed by the Motor Accident Claim Tribunal, Sangli (for short "the Tribunal"). The claimants have also preferred Cross Objection for enhancement of compensation. As appeal and Cross objection are against the same Judgment and order, I am deciding it 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.5,000/- per month without any evidence on record. It is on higher side. Learned counsel further submitted that

there is breach of the terms and conditions of insurance policy, but this fact is not considered by the Tribunal. Hence, requested to allow the appeal.

3. It is contention of the learned counsel for Respondents-claimants that deceased was doing the business of Goldsmith and he was earning Rs.8,000/- to Rs.8,500/- per month and he was income tax payer. At the time of accident, he was 25 years old. The Tribunal has considered monthly income of the deceased on lower side. The Tribunal should have considered income at Rs.8,000/- per month. The Tribunal has awarded consortium on lower side. Hence, requested to allow the cross objection and dismiss the appeal. Learned counsel further submitted that the multiplier is wrongly applied. Future prospects is also not awarded.

4. I have heard both learned counsels. Perused the Judgment and order passed by the Tribunal. It is claimants case that the deceased was running jewellery shop in the name of Krishna Jewellers” Harbhat Road, Sangli and he was getting income of Rs.8,000/- to Rs.8,500/- per month. To prove the income of deceased, the claimant No.5 Sharad Jadhav has examined. He has stated that the deceased was running jewellery shop and he was also doing money lending business and earning Rs.8,000 to 8,500/- per

month. He has further stated that the deceased was income tax payer. The witness Suresh Devkar has stated that the deceased was running jewellery shop and earning Rs.60,000/- to 70,000/- per year. This witness is the adjacent shop owner of the deceased. The Shop Act license of the deceased is at Exhibit 75 and money lending license is at Exhibit-77. While dealing with the issue of income of the deceased, the Tribunal has observed that the deceased was running Jewellery Shop, Shop Act License and Money Lending Act shows that he was doing business of jewellery shop and money lending. Considering the evidence on record the Tribunal has considered notional monthly income of the deceased at Rs.5,000/- per month. I do not find any infirmity in it. In my view, the deceased was running jewellery shop and was doing money lending business. He was the sole earning member of his Family. Hence, the Tribunal has considered proper income. I am not considering about enhancement of the income as the PW-3 adjacent shop owner of the deceased has stated that the deceased was earning Rs.60,000/- to 70,000/- per month. Hence, I am considering Rs.60,000/- as annual income of the deceased.

5. While awarding compensation, the Tribunal has not awarded future prospects. As per the view of the Hon'ble Apex Court

in the case of **National Insurance Company Limited Vs. Pranay Sethi 2017 ACJ 2700 (SC)**, the claimants are entitled 40% future prospects. The Tribunal has applied wrong multiplier as per the age of the mother of deceased. It should be as per the age of the deceased. Hence, I am considering the multiplier of '17'. The Tribunal has awarded consortium amount on lower side. As per the view of the Hon'ble Apex Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ 2782 (SC)**, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18,000/- for funeral expenses.

6. It is contention of learned counsel for Appellant - Insurance Company that there was breach of the terms of conditions of insurance policy but no evidence is produced on record in that regard. Hence, I do not find merit in it. The Tribunal has awarded rate of interest @ 9% p.a. It is on higher side. I am considering it @ 7.5% p.a.

7. It is contention of learned counsel for the Appellant Insurance Company that the Tribunal has deducted 1/3rd amount for personal expenses, it should be 1/2. I find merit in it. The deceased was bachelor. Hence, the deduction of personal amount should be 1/2 and I am considering it.

8. Considering the above calculation, the claimants are entitled for following compensation:

Particulars	Amount
Loss of Income	Rs.5000/- p.m.
Annual Income	60,000/- p.a.
½ Deduction towards personal expenses (deceased being bachelor aged 25 years)	30,000/-
Rs.60,000/- (-) Rs.30,000/- =	30,000/-
Future Prospects increase by 40% of the income being deceased aged 25 years	12,000/-
Rs.30,000/- (+) Rs.12,000/- =	42,000/-
Multiplier “17” X 42,000 (age of the deceased 28 years)	7,14,000/-
Loss of consortium	48,000 X 2 96,000/-
Loss of estate	18,000/-
Funeral expenses	18,000/-
Total	1,32,000/-
Rs.7,14,000 (+) Rs.1,32,000/- = Total Compensation	8,46,000/-
Less Awarded by Tribunal	4,82,000/-
Total enhanced amount Rs.8,46,000/- (-) Rs.4,82,000/- =	3,64,000/-

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

ORDER

- i. The First Appeal is partly allowed.
- ii. The cross objection is allowed.
- iii. The claimants are entitled for enhanced amount of **Rs.3,64,000/-** at the rate of 7.5% per annum from the date of filing claim Petition till realisation of amount. Out of this

amount, **Rs.1,32,000/-** is consortium amount. The claimants are entitled @ **7.5%** 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 six 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. Statutory amount along with interest be transmitted to the Tribunal. The parties are at liberty to withdraw the cash 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.

10. The First Appeal and Cross objection are disposed off in the aforesaid terms.

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

(SHIVKUMAR DIGE, J.)