

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1395 OF 2016

The New India Assurance Co. Ltd., }
Siddivinayak Compex, Near Tata Petrol }
Pump, Miraj Road, Sangli. } **...Appellant**

Versus

1. Smt. Shamshadbi Nisarahmad Khan }
 Age-32, Occ : Household }

2. Kum Nasir Nisarahmad Khan }
 Age-13 years, Occ: Education }

3. Kum Yasir Nisarahmad Khan }
 Age-10 years, Occ : Education }

4. Kum Shahid Nisarahmad Khan }
 Age-8 years, Occ: Education }

5. Kum Asiya Nisarahmad Khan }
 Age-3 years, Occ: Nil }

6. Smt. Haseena Fajlorahiman Khan }
 Age-59 years, Occ : Houshold }
 All are R/at Abilyanagar, Vijaynagar, }
 Kupwad, Tal-Miraj, District-Sangli }

7. Shri. Dattatraya Vyankusa Jituri }
 Age-Major, Occ: Tanker Owner }
 R/o 416/1, Utkarsh Bunglow, Mukundnagar, }
 Pune } **....Respondents**

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Mr.Shrikant M. Dange, for the Appellant.
Mr.Sachin Hande, for Respondent Nos.1 to 6.

CORAM : SHIVKUMAR DIGE, J.

DATE : 31st JANUARY 2025

ORAL JUDGMENT :-

. The issues involved in this Appeal are that, wrong application of multiplier and compensation is given on higher side under other heads.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, the Tribunal has applied multiplier of 17. At the time of the accident deceased was 34 years old. So multiplier should be 16. The learned counsel further submitted that, the Tribunal has awarded amount under the head of consortium, funeral expenses and loss of estate on higher side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, the Tribunal has passed well reasoned order, no interference is required in it. Hence requested to dismiss the Appeal.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Sangli.

5. At the time of the accident the deceased was 34 years old. The proper multiplier is 16. The Tribunal has applied multiplier of 17, which is erroneous, hence I am considering multiplier of 16. The Tribunal has awarded consortium amount around Rs.5 lakhs it is on higher side. As per view of Hon'ble Apex Court in case of *Magma General Insurance Co. Ltd. V/s. Nanu Ram¹*, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. Considering this calculation the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Income	Rs.10,000.00
(+) Future Prospects (50%)	Rs.5,000.00
Annual Income After Future Prospects	Rs.15,000.00
(-) Personal Expenses (1/4th amount)	Rs.3,750.00
	Rs.11,250.00

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Net Annual Loss of Income	Rs.1,35,000.00
Multiplier 16	
Loss of future income	Rs.21,60,000.00
Consortium (Rs.48,000 x 6)	Rs.2,88,000.00
Loss of Estate	Rs.18,000.00
Funeral Expenses	Rs.18,000.00
Total Just Compensation Payable	Rs.24,84,000.00
Tribunal Awarded	Rs.28,70,000.00
Excess Amount	Rs.3,86,000.00

6. The excess amount is of Rs.3,86,000/-, the Appellant is entitled for this amount.

7. In view of above, I pass following order.

ORDER

(i) The Appeal is allowed.

(ii) The Appellant-Insurance Company is permitted to withdraw Rs.3,86,000/- with proportionate interest fixed by the Tribunal from the deposited amount.

(iii) The Repondent's-Claimant's are permitted to withdraw remaining amount with proportionate interest.

(iv) The statutory amount alongwith interest be transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.

(v) Record and Proceedings be sent back to the Tribunal.

(vi) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)