IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1081 OF 2012

The New India Assurance Co. Ltd
LIC Building, Sadar Bazar, Satara
Through Mumbai Regional Officer-I,
New India Bhavan 2nd Floor, 34/38,
Bank Street, Fort, Mumbai – 400023 ...Appellant

Versus

1. Smt. Sunita Sharad Nakade
Age- 27 years, Occupation Service,

2. Khema Abaji Nakade
Age-58 years, Occupation-Agriculture

3. Sou. Bakulabai Khema Nakade
Age-55 years, Occupation Household

All resident of Village Dhamani,
Post Pimpari, Tal. Man, Dist. Satara

4. Ramesh Yashawant Phuke
Age-38 years, Occu. Business
R/o Rasathi, Tal. Patan, Dist. Satara
(Owner of Tata Sumo)

5. Tata Motors Ltd.
Address: Plot No. T-1 & T-2, Cinhat
Industrial Estate, Lucknow-226019
(Owner of Truck Chasis) ....Respondents

WITH
FIRST APPEAL NO. 1170 OF 2016

1. Smt. Sunita Sharad Nakade
Age- 30 years, Occupation Service,

2. Khema Abaji Nakade
Age-61 years, Occupation-Agriculture

3. Sou. Bakulabai Khema Nakade
Age-58 years, Occupation Household ....Appellants

Vs.

1. Ramesh Yashawant Phuke
Age-38 years, Occu. Business
R/o Rasathi, Tal. Patan, Dist. Satara.

2. Tata Motors Ltd.
Address: Plot No. T-1 & T-2, Cinhat
Industrial Estate, Lucknow-226019
(Owner of Truck Chasis)

3. The New India Assurance Co. Ltd
LIC Building, Sadar Bazar, Satara
Through Mumbai Regional Officer-I,
New India Bhavan 2nd Floor, 34/38,
Bank Street, Fort, Mumbai – 400023. ....Respondents

Mr. Devendra Joshi (through VC) for the appellants in FA 1081/2012

Mr. Yuvraj Narvankar for appellants in FA 1170/2016

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th DECEMBER 2025

ORAL JUDGMENT:

1. The appellant has preferred First Appeal No. 1081 of 2012 against the Judgment and Order passed by Motor Accident Claims Tribunal, Karad (for short 'the Tribunal). The respondents claimants also preferred First Appeal for enhancement of compensation. Both appeals are against the same Judgment and Order. Hence, I am deciding it by a common judgment.

2. It is contention of learned counsel for the insurance company that accident occurred due to sole negligence of the deceased as he was riding the motorcycle and he was trying to overtake other vehicles. While doing so, he gave dash to the offending vehicle. Learned counsel further submitted that deceased was not wearing helmet. Accident occurred due to sole negligence of the deceased. Learned counsel further submitted that at the time of accident, the driver of the offending vehicle was not holding effective and valid driving license, but these facts are not considered by the Tribunal, hence, requested to allow the appeal. Learned counsel further submitted that at the time of accident, the deceased was 33 years old. Hence, multiplier should be 16, but the Tribunal has applied 17 and requested to allow the appeal.

3. It is contention of learned counsel for respondents-claimants that the Tribunal has not awarded future prospects. The consortium is awarded on lower side, the rate of interest awarded on compensation is 6%, it should be 9% and requested to allow the cross appeal and requested to dismiss the appeal filed by the insurance company.

4. I have heard both learned counsels, perused impugned Judgment and Order. It is claimants' case that the deceased was riding on motorcycle, at the relevant time, the offending truck and

sumo gave dash to his motorcycle. Due to dash, deceased sustained injuries and died while taking treatment. The offence was registered against the truck driver and driver of Tata Sumo. While dealing with the issue of negligence, on the basis of police papers and evidence produced on record, the Tribunal has observed that accident occurred due to negligence of driver of the offending truck and offending Sumo. The driver of the truck and driver of the Sumo did not step into the witness box to prove negligence of the deceased. Hence, I do not find merit in the contention that accident occurred due to sole negligence of the deceased. To prove the fact that at the time of accident, the deceased was not wearing helmet, no evidence is produced on record. Hence, I do not see merit in it. The appellant insurance company has not produced evidence on record to prove that drivers of the offending vehicle were not holding effective and valid driving licence. Hence, I do not find merit in it. The appeal filed by the appellant insurance company is devoid of merit. As far as multiplier is concerned, I am considering multiplier of 16

5. 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 Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)***, the claimants are entitled for 40% future prospects. The

Tribunal has awarded consortium on lower side. As per the view of Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled Rs. 48,000/- for consortium amount, Rs. 18,000/- for loss of estate and Rs. 18,000/- for funeral expenses. The Tribunal has awarded interest on compensation amount at 6% per annum. In my view, it is on lower side. Hence, I am considering 7.5% per annum.

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

Loss of dependency	300/- (Driving Business) 300 X 28 days = Rs. 8,400/-
Annual income	Rs. 8,400/- X 11 months = Rs. 92,400/-
Future prosepects	40% = Rs. 36,960/-
Income with future prospects	Rs. 1,29,360/-
1/3rd Deduction towards personal income	Rs. 43,120/-
Total income after deduction of personal income	Rs. 86,240/-
Multiplier X 16	Rs. 13,79,840/-
Total loss of dependency	**Rs. 13,79,840/-**
Consortium Rs. 48,000/- X 3	Rs. 1,44,000/-
Loss of Estate	Rs. 18,000/-
Funeral Expenses	Rs. 18,000/-
Total	**Rs. 15,59,840/-**
Less awarded by the Tribunal	Rs. 10,74,700/-
Total compensation	**Rs. 4,85,140/-**

7. In view of above, I pass following Order:

ORDER

I. First Appeal No. 1170 of 2016 is allowed and First Appeal No. 1081 of 2012 is partly allowed.

II. The claimants are entitled for enhanced compensation of **Rs. 4,85,140/-** at **7.5%** interest per annum from the date of filing claim petition till realization of the amount. Out of this amount, **Rs. 1,80,000/-** is consortium amount, the claimants are entitled @ 7.5% interest per annum on it from 1st November 2017, till realization of the amount. The claimants are entitled to 7.5% interest on Rs. 10,74,700/- from the date of filing of the claim petition till realisation of the amount.

III. Respondent-Insurance Company shall deposit enhanced compensation amount along with accrued interest thereon and enhanced interest amount at 1.5% from the date of filing claim petition till realization of amount within a period of six weeks from the date of receipt of this order.

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

V. The claimants shall pay deficit Court fees on enhanced amount, as per Rule.

VI. Record and proceedings be sent back to the Tribunal.

8. Both appeals stand disposed off accordingly.

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

(SHIVKUMAR DIGE, J.)

IRESH MASHAL Digitally signed by IRESH MASHAL Date: 2025.12.22 19:38:51 +0530