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

FIRST APPEAL NO. 921 OF 2013
WITH
CIVIL APPLICATION NO.2719 OF 2013
IN
FIRST APPEAL NO. 921 OF 2013

National Insurance Co.Ltd.
Through its,
Mumbai Regional Office I, 5th Floor,
Sterling Cinema Bldg. 65, Murzban Raod,
Fort Mumbai -400 020 ...Appellant/Applicant
(Original Opp. No.2)

Versus

1. Mast. Aditya Milind Bhide,
Age:-Minor, Occ:-Education,
Through his N.G(Father), Resp. No.2

Respondent Nos.1 to 2
Original Claimants.

2. Mr. Milind Madhav Bhide
Age:-47, Occ:- Buisness,
Both R/o:- Pole Factory Housing Society,
Jaysingpur, Tal:- Shirol,
Dist:- Kolhapur.

3. M/s. Swami Samarth Auto Centre
Prop:- Mr.Sachin Sarjerao Patil,
Age:-52, Occ:- Buisness,
R/o:- Porle, Tal:- Panhala,
Dist:- Kolhapur.

4. Mr.Sharad Parshuram Wadkar
Age:-25 yrs, Occ:- Driver,
R/o:- Hanbarwadi, Tal:- Karveer,
Dist:- Kolhapur.

5. Mr. Mehboob Kashim Shaikh
Age:-62, Occ:- Labour Work,

R/o:- Lane No.6, Rajiv Gandhinagar,
Jaysingpur, Tal:- Shirol,
Dist:-Kolhapur. ...Respondents

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Mr. Atul Gatne (through VC) for appellant

Mr. Akshay Kulkarni i/b Mr. Manoj Patil for the respondents

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CORAM : SHIVKUMAR DIGE, J.

DATE : 18th NOVEMBER, 2025

ORAL JUDGMENT :

1. This appeal is preferred by the Appellant - Insurance Company against the Judgment and order passed by the Motor Accident Claims Tribunal, Kolhapur (for short " the Tribunal").

2. It is contention of learned counsel for the Appellant-Insurance Company that the Tribunal has considered monthly income of the deceased on higher side. The deceased was an Advocate. The Tribunal should have considered his monthly income on the basis of three years average income. Learned counsel further submitted that the Tribunal has considered Multiplier on higher side. There are two claimants/dependents but the Tribunal has deducted 1/4th amount for personal deduction, it should be 1/ 3rd. It is submitted that the Tribunal has considered future prospects at 50%. It should be 40%. Learned counsel further submitted that at the time of accident, the driver of offending vehicle was not holding effective and valid driving

license. But tribunal has not considered these facts and has passed impugned judgment and order, which is erroneous. Hence, requested to allow the appeal.

3. It is contention of learned counsel for Respondents-claimants that the deceased was practicing Advocate. The Tribunal has considered his monthly income as Rs.16,826/- per month, but while calculating compensation, the Tribunal has considered Rs.16,000/-, which is on lower side. Learned counsel further submitted that the consortium is awarded on lower side. The Tribunal has passed well reasoned order. No interference is required in it. Hence, requested to dismiss this appeal.

4. I have heard both learned counsels. Perused the Judgment and order passed by the Tribunal. It is claimants case that the deceased was practicing Advocate and he was earning Rs.20,000/- per month and he had filed annual income tax returns. The Tribunal has considered monthly income of the deceased at Rs.16,826/- per month but while calculating the monthly income of the deceased, the Tribunal has considered Rs.16,000/- per month. In my view, the deceased was filing income tax returns and on the basis of income tax returns, after deducting some amount, the Tribunal has considered Rs.16,826/- per month as monthly income of the deceased but while

calculating the compensation, the Tribunal has considered it as Rs.16,000/-, which is erroneous as the income tax returns showing the income of the deceased is filed on record. Considering these facts, I am considering monthly income of the deceased at Rs.16,826/- per month. The Tribunal has applied multiplier as “16” but at the time of incident, the deceased was 38 years old. Hence, the proper multiplier is “15”. The Tribunal has considered 50% future prospects. The deceased was in profession of Advocacy, hence, I am considering it 40% future prospects.

5. It is contention of learned counsel for Appellant that at the time of accident the driver of offending vehicle was not holding effective and valid driving license and it is mentioned in the written statement of defendant, but no evidence is produced by the appellant to prove that at the time of incident, the driver of offending vehicle was not holding an effective and valid driving license. Hence, I do not find merit in it.

6. 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.

7. It is contention of learned counsel for the Appellant Insurance Company that the Tribunal has deducted 1/4th amount for personal expenses. There are two claimants, hence, it should be 1/3rd. I find merit in it. Hence, the deduction of personal amount should be 1/3rd and I am considering it.

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

Particulars	Amount
Income	Rs.16,826/- p.m.
Annual Income	2,01,912/- p.a.
Multiplier "15"	30,28,680/-
Addition of 40% Future Prospect	42,40,152/-
1/3rd Deduction	28,26,768/-
Other Heads : Loss of consortium	48,000 X 2 96,000/-
Loss of estate	18,000/-
Funeral expenses	18,000/-
Total Amount.	**29,58,768/-**
To be deducted	**34,90,500/-**
Total	**5,31,732/-**

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

<u>ORDER</u>

(i) The Appeal is allowed;

(ii) The Appellant-Insurance company is permitted to withdraw **Rs.5,31,732/-** along with accrued interest thereon out of deposited amount;

(iii) The claimants are permitted to withdraw remaining amount along with accrued interest thereon;

(iv) Statutory amount along with interest be transmitted to the Tribunal. The parties are at liberty to withdraw the cash as per rule;

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

10. The Appeal is disposed off in the aforesaid terms.

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

(SHIVKUMAR DIGE, J.)