IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 412 OF 2009

1. Smt.Sulbha Arun Salunkhe }
Age-35, Occ: Household }

2. Kum.Ashawini Bapu Salunkhe }
Age-12, Occ: Education }

3. Kum.Akshay Arun Salunkhe }
Age-11, Occ: Education }

4. Shri.Shankar Tukaram Salunkhe }
Age-68, Occ: Nil }

5. Sou.Champabai Shankar Salunkhe }
Age-61, Occ: Household }
All R/o. Pimpode (Bk.) Taluka-Koregaon, District-Satara, }
Appellant Nos.2 and 3 are minor Thr. Appellant No.1 as GAL } **...Appellants**

Versus

1. Shri.Thru C. Mani S/o. Chinnathambi }
Age-Manor, Occ: Business & Truck No.TN-28/F-0495 owner, R/o N. Pudupatti (Po) Namakkal, Taluka-District-Tamilnadu. }

2. National Insurance Co. Ltd. }
Branch Office, Ganeshchandra Chamber, Powai Naka, Satara. } **...Respondents**

Ms.Nimisha Sharma i/b Mr.Sangramsinh Yadav, for the Appellants.
Ms.Sneha S. Dwivedi, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 03rd JULY 2025

ORAL JUDGMENT :-

. The issues involved in this Appeal are income of the deceased is considered on lower side and consortium amount awarded is on lower side.

2. It is contention of the learned counsel for the Appellants that, the deceased was working as a Manager in Chatrapati Sambhajiraje Sahakari Pathsanstha Mydt., and getting salary of Rs.8,010/-. He was also doing milk business and was taking care of the cattles. He had completed Animal Husbandry Diploma and his total income was Rs.18,000/- per month, but the Tribunal has considered Rs.7,000/- per month, which is on lower side. The learned counsel further submitted that, the Tribunal has awarded consortium on lower side, it be awarded. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the

Respondent-Insurance Company that, the salary certificate produced on record of the deceased is not upto the mark. The Tribunal while considering income of the deceased has observed that, the evidence produced on record was not reliable to show that he was earning Rs.18,000/- per month. On the basis of the evidence, the Tribunal has considered monthly income at Rs.7,000/-, which is proper. The learned counsel further submitted that, the Tribunal has passed well reasoned order, no interference is required in it and 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), Satara.

5. To prove the income of the deceased, the Claimant's have examined Claimant No.1-Sulbha Salunkhe. She has stated that, the deceased was serving in Chatrapati Sambhajiraje Sahakari Pathsanstha Mydt, Pimpode BK, Taluka-Koregaon and he was getting salary of Rs.8,000/- per month. The salary certificate is at Exhibit-37. She has further stated that, the deceased had completed diploma in Animal Husbandry. The

certificate is at Exhibit-32. She further stated that, her husband used to visit Hanuman Milk Dairy and Bhairavnath Milk Dairy and he was getting Rs.4,000/- to Rs.5,000/- per month from both dairies. The deceased owned 5 acres agricultural land and he was getting crops like sugarcane, Ghevada and Potato etc., from it. He used to sell vegetables from agricultural land and he was getting income from it. She further submitted that, from all the sources the deceased used to get Rs.18,000/- per month.

6. In cross-examination she has denied the suggestion that the deceased was not getting monthly income Rs.18,000/- per month. To prove income the Claimant's have examined PW-2 Ashok Lembhe, in-charge Manager at Chatrapati Sambhajiraje Sahakari Pathsanstha Mydt. He has stated that, their Sanstha has 25 branches. The deceased was working as Manager in the Pathsanstha and he was getting salary of Rs.8,010/- per month. The Salary Certificate is at Exhibit-37. In cross-examination he has stated that, the Salary Certificate given is not in format prescribed, other deductions are not mentioned in the Salary Certificate. Amount of the Provident Fund and

Professional Tax is not mentioned in the Salary Certificate. The Claimant's have examined PW-3 Gajanan Dige at Exhibit-38, Chairman of the Hanuman Sahakari Milk Dairy. He has stated that, the deceased Arun was appointed as a doctor for their dairy and he was paying Rs.2,000/- to Rs.2,500/- for half month. The Certificate is at Exhibit-39. In cross-examination he has stated that, he had not brought record to show that, his Pathsanstha was supplying funds for purchasing cattles and he had not maintained receipts about payment made to deceased Arun.

7. The PW-4 Jagannath Dhumal, Chairman of the Bhairavnath Milk Dairy has stated that, the deceased Arun would examine cattles of members of their dairy and they used to pay amount to the deceased Arun. The Certificate is at Exhibit-41. In cross-examination he has stated that, their dairy has not maintained any record about the payment to deceased Arun.

8. PW-7 Ramrao Lembhe, Founder Member of Chatrapati Sambhajiraje Sahakari Pathsanstha Mydt., has stated that, the deceased was working as Manager in their Pathsanstha. He has stated that, they obtained signature of employees on

separate papers about payment and separate salary is not maintained in each branch.

9. While dealing with the issue of income of the deceased the Tribunal has observed that, in salary certificate there is no deduction of the Provident Fund and Professional Tax and on the basis of the evidence on record the Tribunal has considered monthly income of deceased at Rs.7,000/- per month. In my view, it is on lower side. The deceased was working as Manager in Pathsanstha and he was getting salary and he had income from other sources.

10. It is contention of the learned counsel for the Respondent-Insurance Company that, the salary certificate produced on record is not in proper format. In my view, though the Salary Certificate produced on record is not in proper format, but it shows that deceased was working in the said Pathssanstha. The said Pathsanstha had 25 branches. The Chairman and founder member of the Pathsanstha and in-charge manager had stated before the Tribunal that, the deceased was working as Manager in their Pathsanstha. Moreover, it has come on record

that, the deceased had completed Animal Husbandry Diploma and he was getting income from it. He also owned the land in his name and he was taking crops from it, but these fact's are not considered by the Tribunal. Considering these fact's, I am considering Rs.10,000/- as notional monthly income of the deceased.

11. The Tribunal has awarded future prospects on lower side. As per view of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. V/s. Pranay Sethi*[1]*,*** the Claimants are entitled for 25% future prospects, hence, I am considering 25% future prospects.

12. The Tribunal has awarded consortium on lower side. As per view of Hon'ble Apex Court in case of ***Magma General Insurance Co. Ltd. V/s. Nanu Ram*[2]*,*** 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 these calculations, the Claimants are entitled for following compensation.

1 2017 ACJ 2700 (SC)
2 2018 ACJ 2782 (SC)

Particulars	Amount
Monthly Income	Rs.10,000.00
Annual Income	Rs.1,20,000.00
(+) Future Prospects (25% Yrs)	Rs.30,000.00
Annual Income After Future Prospects	**Rs.1,50,000.00**
(-) Personal Expenses (1/4th amount)	Rs.37,500.00
Net Annual Loss of Income	Rs.1,12,500.00
Multiplier (14)	**Rs.15,75,000.00**
Consortium (Rs.48,000 x 5)	Rs.2,40,000.00
Loss of Estate	Rs.18,000.00
Funeral Expenses	Rs.18,000.00
Total	**Rs.18,51,000.00**
Medical	Rs.2,55,000.00
Diet & Attendance	Rs.25,000.00
Mental Shock & Suffering	Rs.5,000.00
Total Just Compensation Payable	Rs.21,36,000.00
Tribunal awarded	Rs.11,30,848.00
Enhanced Amount	**Rs.10,05,152.00**

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

ORDER

(i) The Appeal is allowed.

(ii) The Claimant's are entitled for enhanced amount of Rs.10,05,152/- @ 7.5% per annum from date of the filing of the Claim Petition till realization of the amount. Out of this amount Rs.2,76,000/- is consortium amount, the Claimant's are entitled @ 7.5% interest on it from 1st November 2017, till realization of the amount.

(iii) The Respondent-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within 8 weeks after receipt of this order.

(iv) The Claimants are permitted to withdraw the deposited amount alongwith interest.

(v) The Claimants shall pay deficit Court Fees on enhanced amount, as per Rules.

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

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

(SHIVKUMAR DIGE, J.)