IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 363 OF 2015

1	Rajaram Kalu Inchanalkar Age : 52 years, Occu : Agriculturist, Labour and Milk Vendor	)))	
2	Varsha Rajaram Inchanalkar Age : 20 years, Occu : Education	))	
3	Vaibhav Rajram Inchanalkar Age : 15 years, Occu : Education	))	
4	Shivubai Kalu Inchanalkar Age – 77 years, Occu .: Nil The Appellant Nos. 3 is minor hence through their Natural guardian Father i.e. The Appellant No.1 All the Appellants are R/o. : Lingnoor Ka. Nool, Taluka : Gadhingalaj, District : Kolhapur	))))))	Appellants

Versus

1	Josef Peter Dantas Age : 47 years, Occu : Business R/o. House No. 543, Mangaon, Malawadi, Taluka – Kudal, District – Shindhudurg (The Owner of Mahindra Scorpio LX bearing No. MH-07-AQ-5679)	))))))	
2	Sagar Chandrakant Dhuri Age – 25 years, Occupation : Driver R/o. Mangaon, Taluka – Kudal, District : Shindudurg (The Driver of Mahindra Scorpio LX bearing No. MH-07-AQ-5679)	))))))	
3	The National Insurance Company Ltd. 3316(22), D7, Mehaneel Plaza, Nerurkar Road, Kudal, District : Shindhudurg, The Notice of the Respondent No.3 be served upon : The National Insurance Company Ltd., Branch Office: Kolhapur City, 1241, E Ward, Shahu Mill Road, Kolhapur, District : Kolhapur (Policy No. 27080331116965005926, Policy period 03/12/2011 to 02/12/2012)	)))))))))	

(The Insurance Company of Mahindra Scorpio LX)
bearing No. MH-07-AQ-5679)) Respondents

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Mr. Sudhakar G. Thorat, Advocate for the Appellants.
Ms. Shalini Shankar, Advocate for Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.
DATED : 31st JANUARY, 2025.

ORAL JUDGMENT :

1. By this appeal appellants are seeking enhancement of compensation.

2. It is contention of learned counsel for the appellants that all the claimants were depending upon the income of the deceased. The deceased was doing tailoring work and agricultural labour work and she was earning @Rs.6,000/- per month but the Tribunal has considered her monthly income @ Rs.4,000/- per month, which is on lower side. Learned counsel further submitted that the Tribunal has not awarded future prospects, loss of estate and consortium amount is awarded on lower side, hence requested to allow the appeal.

3. It is contention of learned counsel for respondent No.3-Insurance company that the Tribunal has passed well reasoned order, no evidence is produced on record to prove the income of the deceased hence requested to dismiss the appeal.

4. I have heard both the learned counsel. Perused Judgment and Order passed by Motor Accident Claims Tribunal, Gadhinglaj (for short "the Tribunal"). To prove the income of the deceased the appellants/claimants have examined PW-1 Rajaram Inchanalkar, husband of the deceased. He has stated that his wife Ratnabai was doing tailoring work and also doing all types of agricultural and labour work and she used to earn Rs.6,000/- per month. In cross examination, he stated that he owns 4-5 acres of agricultural land. PW-3 Kashinath Kamble, Sarpanch of village Lingnoor Ka. Nool has examined at Exhibit 41/c. He has stated that deceased Ratnabai was doing tailoring work in her house and also working in others agricultural land on daily wages. She was expert in tailoring and she was earning Rs.6,000/- per month. In cross examination, he has stated that the deceased would stitch clothes in her house. She possesses sewing machine. While dealing with the issue to income of the deceased, considering the evidence on record, the Tribunal has considered monthly income of the deceased at Rs.4,000/- of tailoring work. I am unable to understand the observations of the Tribunal as, the Tribunal has not considered monthly income of the deceased from agricultural work. It has come in the evidence of PW-3 who is independent witness and Sarpanch of village where deceased was staying that the deceased used to do agricultural work and she was earning Rs.200/- per day from it, hence I am considering Rs.2,000/- per month as agricultural income of the deceased so total income of the deceased comes to Rs.6,000/- per month. 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 30% future prospects as the deceased was not permanent employee.

The Tribunal has not awarded consortium amount. As per the view of the Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)*** , each claimant is entitled to Rs.48,000/- as consortium amount, Rs.18,000/- as a funeral expenses, Rs.18,000/- for loss of estate. There are 4 claimants.

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

Particulars	**Rs.**	**Entitlement**
Monthly Income	Rs.	6,000/-
40% Future Prospects	Rs.	2,400/-
Total	Rs.	8,400/-
Annual Income	Rs.	1,00,800/-
Annual Income X Multiplier (14)	Rs.	14,11,200/-
1/4th deduction	Rs.	3,52,800/-
Total	Rs.	10,58,400/-
Consortium (Rs.48,000 X 4)	Rs.	1,92,000/-
Funeral Expenses	Rs.	18,000/-
Loss of Estate	Rs.	18,000/-
Total	Rs.	12,86,400/-

compensation awarded by the Tribunal	Rs.	6,04,000/-
Total Enhanced amount	**Rs.**	**6,82,400/-**

The claimants are entitled for an enhanced amount of Rs. 6,82,400/-.

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

ORDER

(i) The appeal is allowed.

(ii) The appellants/claimants are entitled for enhanced amount of Rs.6,82,400/- @7.5% p.a. from date of filing of claim petition till realisation. Out of the this amount, the amount of Rs.2,28,000/- is for consortium and loss of estate and funeral expenses, the claimants are entitled for interest @7.5%. per annum on this amount from 1st November, 2017 till realisation.

(iii) The respondent No.3/Insurance Company shall deposit enhance amount along with interest within six weeks.

(iv) The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

(v) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

(vi) The claimants shall pay the deficit Court fees on enhanced amount as per rule.

7. The appeal is disposed of. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)