

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## CIVIL APPELLATE JURISDICTION

## FIRST APPEAL NO. 139 OF 1998

Oriental Insurance Co. Ltd. )  
 Through Satara Branch )  
 Divisional Manager, Satara Division, Satara )... Appellant

Versus

- 1 Shantabai Dinkar Yelmare )  
 Age 30 years for herself and as M.G. for respondents )  
 No.2 to 4 )  
 Orig. Applicants No. 2 to 4 )
- 2 Sangeeta Dinkar Yelmare )  
 Age : 13 years, Occ. Education )
- 3 Amol Dinkar Yelmare )  
 Age 10 years, Occ. Education )
- 4 Vikas Dinkar Yelmare )  
 Age 7 years, Occ. Education )
- 5 Sarjerao Dnyanu Yelmare )  
 Age 57 years, Occ. Nil )
- 6 Smt. Kalavati Sarjerao Yelmare )  
 Age 52 years, Occ. Household )  
 All residents of Mamar, Post Nandgaon, )  
 Taluka Karad, District Satara )
- 7 Dilip Bandu More Resident of Dhamai, Taluka Patan, )  
 District Satara )
- 8 Subhash Maruti Dudhade )  
 Resident of Dhamani, Talukar Patan, District Satara )
- 9 Laxman Anant Mohite )  
 Deleted )
- 10 New India Insurance Co. Ltd. ) Respondents  
 Through Branch Satara )  
 Deleted )...

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Mr. Sachin Raje, Advocate for the Appellant.

Ms. Gargi Warunjikar i/b. Mr. Uday Warunjikar, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.  
DATED : 17<sup>th</sup> JULY, 2025.

**ORAL JUDGMENT :**

1. The issue involved in this appeal is driver of offending vehicle was not holding effective and valid driving licence.
2. It is contention of learned counsel for the appellant /Insurance Company that at the time of accident, the driver of offending vehicle was not holding effective and valid driving licence. The evidence is produced on record to prove that the driver of offending vehicle was not holding effective and valid driving licence and requested to allow the appeal.
3. learned counsel for the respondent No.1 submits that the Tribunal has awarded consortium amount on lower side and wrong multiplier is applied and requested to dismiss the appeal.
4. I have heard both the learned counsel. Perused Judgment and Order passed by the Motor Accident Claims Tribunal, Satara (for short "**the Tribunal**"). Though, the learned counsel for the appellant has taken the defence that the driver of offending vehicle was not holding effective and valid driving licence, but no evidence is produced on record. It is settled principle of law that if any plea is taken by any party, it has to be proved by producing cogent evidence on record.

While awarding multiplier, the Tribunal has applied multiplier of 11. At the time of accident, the deceased was 30 years old, so proper multiplier

is 17. The Tribunal has awarded consortium amount 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 for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. There are 6 claimants. It comes to Rs.3,24,000/-.

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

| Particulars                 | Rs. | Amount     |
|-----------------------------|-----|------------|
| Monthly Income              | Rs. | 1,000/-    |
| Annual Income               | Rs. | 12,000/-   |
| 1/4 <sup>th</sup> Deduction | Rs. | 9,000/-    |
| Multiplier (17)             | Rs. | 1,53,000/- |
| 50% Future Prospects        | Rs. | 76,500/-   |
| Consortium (Rs.48,000 X 6)  | Rs. | 2,88,000/- |
| Funeral Expenses            | Rs. | 18,000/-   |
| Loss of Estate              | Rs. | 18,000/-   |
| Total                       | Rs. | 5,53,500/- |
| Tribunal granted            | Rs. | 1,60,000/- |
| Enhanced compensation       | Rs. | 3,93,500/- |

Considering the above calculations, claimants are entitled for enhanced amount of Rs.3,93,500/-.

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

#### ORDER

- (i) The Appeal is dismissed.

- (ii) The respondent claimants are entitled for enhanced amount of Rs. 3,93,500/- @ 7.5% interest per annum from the date of filing of claim petition till realisation of the amount. Out of this amount Rs. 3,24,000/- is consortium amount. The claimants are entitled @7.5% interest on this amount from 1<sup>st</sup> November, 2017 till realisation of amount.
- (iii) The appellant /Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.
- (iv) The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
- (v) The claimants shall deposit deficit Court fees on enhanced amount, if any as per rule.
- (vi) Statutory amount along with accrued interest be transferred to the Tribunal. Parties are at liberty to withdraw it as per rule.
- (vii) All pending application if any also disposed of.
- (viii) R & P be sent back to the Tribunal