IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1558 OF 2024

1. Smt. Annapurna Ananda Muthane
Aged 48 years, Occ. Household
2. Vinayak Ananda Muthane
Aged 30 Yrs, Occ. Nil
3. Sujay ananda Muthane
Aged 30 yrs, Occ. Nil
All residing at Plot No. 10,
Gat No. 157, R. K. Nagar,
Shahapur, Ichalkaranji, Kolhapur ....Appellants

Vs.

1. Ajit Dnyanoba Shinde
Aged Major, Occ. Service
Residing at 33, Bipass Road,
Shahunagar, Jaysingpur,
Tal. Shirol, Dist. Kolhapur
2. Santosh Bhairu Yadav
Aged 40 yrs, Occ. Business
Residing at 7/892, Mahalaxmi
Mandir, Belbag Road, Sutar Mala,
Ichalkarnji, Tal. Hatkanangale
Dist. Kolhapur
3. ICICI Lombard General Insurance
Co. Ltd., Omkar Plaza, Near ICICI
Bank, Bagal Chowk, Kolhapur ....Respondents

Mr. Bhushan Walmbe a/w Mr. Vaibhav V. Arage for the appellants
Mr. Rajesh Kanojia i/b Res Juris for the respondents

CORAM : SHIVKUMAR DIGE, J.
DATE : 11th DECEMBER 2025

ORAL JUDGMENT:

1. This appeal is preferred by the appellants-claimants against the Judgment and Order passed by Motor Accident Claims Tribunal, Kolhapur (for short ‘the Tribunal’).

2. It is contention of learned counsel for appellants-claimants that the Tribunal has considered monthly income of the deceased at Rs. 15,000/- which is on lower side. Learned counsel further submitted that the deceased was filing income-tax returns. Three years income-tax returns are produced on record and as per the average income of three years' income-tax returns, the monthly income of the deceased was more than Rs. 20,000/- per month. Learned counsel further submitted that the Tribunal has considered 30% contributory negligence of the deceased which is erroneous as motorcycle of the deceased was dashed by the offending motorcycle when he was standing near the divider line of the road and requested to allow the appeal.

3. It is contention of learned counsel for the respondent-insurance company that no Shop Act license or any other documents are produced on record to show that the deceased was doing business. The Tribunal has rightly considered monthly income of the deceased. Learned counsel further submitted that deceased was crossing road from wrong direction and accident occurred. The Tribunal has rightly considered the contributory negligence of the deceased. 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 counsels, perused the impugned Judgment and Order. To prove the income of the deceased, claimants have examined the claimant no. 1. She has stated that the deceased was having dealership of ice-cream companies. He was also dealer of construction material in the name of 'Swastik Traders' and he was estate agent. To prove the income of the deceased, the claimants have produced three years income-tax returns of the deceased. These are at Exhibits 37, 38 and 39. While dealing with the issue of income of the deceased, the Tribunal has observed that no Shop Act license and other documents are produced on record on the basis of evidence, the Tribunal has considered Rs. 15,000/- per month as monthly income of the deceased. I am unable to understand the observations of the Tribunal as income-tax returns of the deceased produced on record shows average monthly income of the deceased was more than Rs. 20,000/- per month. Considering this fact, I am considering monthly income of the deceased at Rs. 20,000/- per month. It is settled law that when income tax returns filed on record, it h as to be considered. While dealing with the issue of negligence, the Tribunal has considered 30% contributory negligence of the deceased on the ground that he was not wearing helmet and he was going from wrong direction.

5. In my view, no evidence is produced on record to show that the deceased was not wearing helmet as well as rider of offending motorcycle did not step into the witnesses box to prove the negligence of the deceased. Considering these facts, I am considering, 20% contributory negligence of the deceased and 80% contributory negligence of the rider of the respondents-motorcycle.

6. In view of above calculations, the claimants are entitled for following compensation:

Monthly income	Rs. 20,000/-
Yearly income	Rs. 2,40,000/-
Add 10% future prospects	Rs. 24,000/-
Total	Rs. 2,64,000/-
Less 1/3 for personal deduction	Rs. 88,000/-
Total per annum	**Rs. 1,76,000/-**
Multiplier 11 (Rs. 1,76,000/- X 11)	**Rs. 19,36,000/-**
Consortium Rs. 48,000/- X 3 (claimants)	Rs. 1,44,000/-
Loss of Estate	Rs. 18,000/-
Funeral Expenses	Rs. 18,000/-
Medical expenses	Rs. 6,12,000/-
Total compensation	**Rs. 27,28,000/-**
Less 20% contributory negligence	Rs. 5,45,600/-
Less Awarded by the Tribunal	**Rs. 14,98,700/-**
Enhanced amount	**Rs. 6,83,700 /-**

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

O R D E R

I. The Appeal is allowed.

II. The claimants are entitled for enhanced compensation of **Rs. 6,83,700/-** 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.

III. Respondent No. 3-Insurance Company shall deposit enhanced compensation amount along with accrued interest thereon, 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. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)