IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 2656 OF 2007

1	Krishnarao Hindurao Dabhade	)	
2	Vaijayanti Krishnarao Dabhade	)...	Appellants
	Versus		
1	Nitinkumar Dhondiram Kasture	)	
2	Deelip Bhagwan Kavathekar	)	
3	The Manager, The New India Assurance Co. Ltd.	))...	Respondents

Mr. Sudhakar G. Thorat, Advocate for the Appellants.
Mr. Devendranath Joshi along with Mr. Pradyumna Thakurdesai i/b. I. R. Kulkarni, Advocates for Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.
DATE : 7th JANUARY, 2025.

Judgment :

1. By this appeal, the appellants/claimants are seeking enhancement of compensation.

2. It is contention of learned counsel for the appellants/claimants that the deceased was getting monthly salary at Rs.8,432/- but the Tribunal has considered at Rs.7,500/- which is on lower side. Learned counsel further submitted that the Tribunal has not awarded future prospects and applied multiplier is wrong multiplier. The 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 no evidence is produced on record to show that the deceased was getting monthly income @ Rs.8432/-. The Tribunal has passed a well reasoned order. No interference is required in it and requested to dismiss the appeal.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Kolhapur (for short "the MACT"). To prove the income of the deceased, the claimants have examined claimant No.1-Krishnarao Dabhade. He has stated that the deceased was his son and he was working as Loan Service Executive in Mahindra and Mahindra Finance Company and he was getting monthly salary of Rs.8,400/-. In support of evidence of PW1, the claimants have examined PW2-Kuldeep Shelke, Officer of Mahindra Financial Services, at Exhibit-35/C. He has stated that the deceased was appointed as Loan Service Executive from 25th October 2005 and his salary was fixed at Rs.7000/- per month. He was getting other allowances. Considering the evidence on record, the Tribunal has considered monthly income of the deceased at Rs.7,500/- along with other allowances. I do not find infirmity in it.

5. In my view, no evidence is produced on record to show that the deceased was getting monthly income of Rs.8,400/-. The deceased was getting salary of Rs.7500/- along with other allowances. The income computed by the Tribunal is proper. At the time of the accident, the

deceased was 29 year old. The Tribunal has applied multiplier of 11 as per the age of parents, it should be 17 as per the age of deceased. Hence, I am considering multiplier of 17.

5.1. The Tribunal has not awarded future prospects. The deceased was permanent employee, hence, the claimants are entitled for 50% as 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).***

5.2 The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled for Rs.48000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18000/- for funeral expenses.

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

Particulars	**Rs.**	**Amount**
Annual Income (Rs.7,500/- x 12)	**Rs.**	90,000.00
50% future prospects	**Rs.**	45,000.00
Total	**Rs.**	1,35,000.00
1/2 deduction towards personal expenses	**Rs.**	67,500.00
Total	**Rs.**	**67,500.00**
Rs.67,500/- x 17(multiplier)	**Rs.**	11,47,500.00
Consortium (Rs.48,000/- x 2 (claimants))	**Rs.**	96,000.00
Funeral Expenses	**Rs.**	18,000.00
Loss of Estate	**Rs.**	18,000.00
Total Compensation	**Rs.**	**12,79,500.00**

The Tribunal has awarded Rs.6,95,000/-, if this amount is deducted from the amount of Rs.12,79,500/- considered by this Court, it comes to Rs.5,84,500/-. The claimants are entitled for this amount.

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

O R D E R

(1) The appeal is allowed.

(2) The claimants are entitled for enhanced compensation of Rs.5,84,500/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.1,32,000/- is consortium amount, the claimants are entitled @ 7.5% interest per annum on this amount from 1st November 2017 till realisation of the amount.

(3) Respondent No.3-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.

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

(5) The claimants shall pay deficit court fees on enhanced amount, if any, as per Rule.

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

7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)