

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.609 OF 2011

- | | | |
|--|---|----------------------|
| 1. Smt.Anita Chandrakant Sangavikar | } | |
| Age-41 years, Occ: Household | } | |
| | } | |
| 2. Kum.Ashwini Chandrakant Sangavikar | } | |
| Age-18 years, Occ: Education | } | |
| | } | |
| 3. Kum.Puja Chandrakant Sangvikar | } | |
| Age-16 years, Occ: Education | } | |
| | } | |
| 4. Prasad Chandrakant Sangavikar | } | |
| Age-12 years, Occ :Education | } | |
| | } | |
| Appellant Nos.3 to 4 are minors represented | } | |
| through Appellant No.1 as their natural | } | |
| mother and Guardian | } | |
| | } | |
| 5. Sambhaji Bhau Sangavikar | } | |
| (Since deceased) | } | |
| All R/o 9-B, Suvidya Nagar, Vijapur Road, | } | |
| Solapur | } | ...Appellants |

Versus

- | | | |
|--|---|--|
| 1. Subhani SK Khamal | } | |
| R/at 13-7-40, Gunturvarithota, Guntur, | } | |
| District-Guntur (Andhara Pradesh) | | |
|
2. The New India Assurance Co. Ltd. | } | |
| (Summons be served on Divisional Manager | } | |
| Solapur Division, Solapur) | } | |

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3. Maharashtra State Road Transport }
 Corporation, }
 Having Its Office at Bombay Central, }
 Bucylla, Mumbai }
 (Summons be served on Divisional Manager }
 Solapur Division, Solapur) }Respondents

Mr.R.S. Alange, for the Appellants.

Ms.Shalini Shankar, for Respondent No.2.

Ms.Rajlaxmi Punjabi i/b Ms.P.M. Bhansali, for Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th JANUARY 2025

ORAL JUDGMENT :-

. By this Appeal, the Claimant's are seeking enhancement of compensation.

2. It is contention of the learned counsel for the Appellants that, the deceased was working as Medical Officer in General Hospital at Solapur. He was getting salary at Rs.22,492/- per month, but the Tribunal has considered monthly income of deceased at Rs.15,312/-, which is on lower side. The learned counsel further submitted that, the Tribunal has not awarded future prospects, consortium amount awarded on lower side and multiplier is not applied properly while calculating the

compensation. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent No.2-Insurance Company that, the Tribunal has considered net salary at Rs.15,312/- of the deceased, which is proper. The learned counsel further submitted that on the basis of evidence produced on record, the Tribunal has passed well reasoned order. No interference is required in it. Hence 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), Solapur.

5. It is Claimant's case that, the deceased was working as a Medical Officer in Civil Hospital at Solapur.

6. To prove income of the deceased the Claimants have examined PW-2 Subhash Gaikwad. He has stated that, he used to prepare pay slips of employees of the Civil Hospital. He knew the deceased who was serving as Medical Officer in Civil Hospital, and he was drawing monthly salary @ Rs.22,492/-. The salary certificate is at Exhibit-40. The Claimant's have

examined Anil Mane, Clerk of Civil Hospital. He has stated that, the deceased was working in Civil Hospital. He produced salary register of deceased Sangavikar for the month of January-2005. In January-2005 deceased received gross salary at Rs.22,492/- after deduction net salary was Rs.15,312/-. Considering the evidence on record, the Tribunal has considered net salary was Rs.15,312/- as monthly income of the deceased. I am unable to understand the observations of the Tribunal, as it is settled principle of law that, the Court has to consider last drawn salary after deducting Professional Tax and Income Tax. The Tribunal should have considered this fact, hence I am considering monthly income of deceased at Rs.20,392/- after deducting Income Tax of Rs.1900/- and Professional Tax of Rs.200/-.

7. The Tribunal has not awarded future prospects. At the time of the accident deceased was 45 years old. As per view of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. V/s. Pranay Sethi¹***, the Claimants are entitled for 30% future prospects.

1 2017 ACJ 2700 (SC)

8. The Tribunal has awarded consortium amount 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 calculation's the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Income	Rs.22,492/-
After deduction of Income Tax and Professional Tax	Rs.1,900/- Rs.200/-

	Rs.20,392/-
Annual Income	Rs.2,44,704/-
30% Future Prospects	Rs.7,3411/-
(-) Personal Expenses (1/4th amount)	Rs.79,529/-
Net Annual Loss of Income	Rs.2,38,586/-
Multiplier 14	Rs.33,40,204/-
Consortium (Rs.48,000 x 5)	Rs.2,40,000/-
Loss of Estate	Rs.18,000/-
Funeral Expenses	Rs.18,000/-
Total Just Compensation Payable	Rs.36,16,204/-
Tribunal Awarded	Rs.16,07,448/-

2 2018 ACJ 2782 (SC)

Enhanced Amount

Rs.20,08,756/-

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

ORDER

- (i) The Appeal is allowed.
- (ii) The Appellants/Claimants are entitled for enhanced compensation at Rs.20,08,756/- @ 7.5% interest per annum from date of filing of 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 No.2-Insurance Company shall deposit enhanced compensation amount along with accrued interest thereon, within eight weeks from the receipt of this order.
- (iv) The Appellants/Claimants are permitted to withdraw the deposited amount alongwith interest.

(v) The Appellants/Claimants shall pay deficit Court Fess on enhanced amount, if any.

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

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

(SHIVKUMAR DIGE, J.)