

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1217 OF 2016

1 Krishnat Dashrath Patil
Age 52 years, Occ : Agriculture

2 Anusaya Krishnat Patil
Age 48 years, Occ : Household
Both the Appellants are residing at Pushire,
Post : Kasba Thane, Tal : Panhala, Dist : Kolhapur

... Appellants

Versus

1 Ranjeet Chandrakant Jadhav
Age : Major, Occu : Business
R/o. 226 to 68, 'B' Ward, Mangalwar Peth,
Kolhapur, Dist : Kolhapur
(Owner of the Jeep No. MH-01/MA-5809)

2 National Insurance Co. Ltd.
Cosmos Commercial Complex, Station Road,
Kolhapur, Dist : Kolhapur
(The Insurance Co. of Jeep No. MH-01/MA-5809)

3 Chaganbhai Bachubhai Sorathiya
~~Age : Major, Occu : Business~~
~~R/o. GIDO Industries Area~~
~~Porbandar - 360575, State : Gujrat~~
(Owner of Truck No. GJ-3/Y-8262)
New Address :
A/P. Bhurana, Tal : Gondal, Dist : Rajkot,
State : Gujrat

This amendment is carried out as per the order
passed by the Hon'ble Shri Justice A.S.Oka, J. on
25.07.11.

4 The United India Insurance Co. Ltd.
Rajshree Shahu Sadan, Station Road, Kolhapur,
Dist : Kolhapur
(Insurer of Truck No. GJ-3/Y-8262)

... Respondents

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Mr. Sudhakar G. Thorat, Advocate for the Appellants.
Ms. Shalini Shankar, Advocate for Respondent No.2.
Ms. Poonam Mital, Advocate for Respondent No.4.

CORAM : SHIVKUMAR DIGE, J.
DATED : 10th JULY, 2025.

ORAL JUDGMENT :

1. By this appeal, the appellants are seeking enhancement of compensation.
2. It is contention of learned counsel for the appellants that at the time of accident, the deceased was serving as a salesman at the shop and earning Rs.4,500/- per month. He was the sole earning member of his family and he was maintaining family of three persons. The Tribunal has considered his income at Rs.3,000/- per month which is on lower side. Learned counsel further submitted that the Tribunal has applied multiplier of the parents of the deceased, which is erroneous and consortium amount is awarded on lower side, hence requested to allow the appeal.
3. It is contention of learned counsels for the respondent Nos. 2 and 4 that, no evidence is produced on record to prove the income 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 all learned counsel. Perused Judgment and Order passed by the Motor Accident Claims Tribunal, Kolhapur (for short “the

Tribunal”). To prove the income of the deceased, the claimant No.1 has examined himself. He has stated that at the time of accident, the deceased was 22 years old and was serving as a salesman in the shop named as M/s. Dattatraya Tukaram Karekar & Sons and earning Rs.4,500/- per month. He further submitted that claimants were depending on his income. To prove the income of the deceased, the claimants have examined PW-2 Sandeep Karekar, shop owner of the deceased. He has stated that deceased was serving as a salesman in his shop and he was giving him salary of Rs.4,500/- per month. He has produced extract of roll cause on record and salary slips. The salary slip is at Exhibit-43. While deciding the income of the deceased, the Tribunal has observed that no document is produced on record to prove the salary of the deceased. Moreover, it is common practice to state the income on higher side in compensation matters, hence the Tribunal has considered notional monthly income of the deceased at Rs.3,000/- per month. I am unable to understand the observations of the Tribunal, as the deceased was the sole earning member of the claimant's family, the claimants are the parents of the deceased. In the claim petition, it was mentioned that the deceased was working as salesman and was earning Rs.4,500/- per month salary. The owner of the shop also corroborates the evidence of the claimants. He has produced muster roll showing the name of the deceased as employee of his shop and

salary certificate shows deceased was earning Rs.4,500/- per month. There is no reason to disbelieve the evidence of this witness. Considering these facts, I am considering monthly income of the deceased at Rs.4,500/-. The Tribunal has applied multiplier of 13, it should be applied as per the age of the deceased. At the time of accident, deceased was 22 years old, hence proper multiplier is 18. 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 two claimants. Total comes to Rs.1,32,000/-.

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 40% future prospects.

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

Particulars	Rs.	Amount
Monthly Income	Rs.	4,500/-
40% Future Prospects	Rs.	1,800/-
Total	Rs.	6,300/-
½ Personal Deduction	Rs.	3,150/-
(Rs.3,150 X 12 X 18)	Rs.	6,80,400/-

Consortium (Rs.48,000 X 2)	Rs.	96,000/-
Loss of Estate	Rs.	18,000/-
Funeral Expenses	Rs.	18,000/-
Total	Rs.	8,12,400/-
Tribunal Granted	Rs.	3,17,000/-
Enhanced amount	Rs.	4,95,400/-

The claimants are entitled for the enhanced amount of Rs. 4,95,400/-.

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

ORDER

- i. The appeal is allowed.
- ii. The claimants are entitled for enhanced amount of Rs.4,95,400/- @ 7.5% interest per annum from the date of filing of claim petition till realisation of the amount. Out of this amount, Rs.1,32,000/- is for consortium amount, funeral expenses and loss of estate, the claimants are entitled @7.5% interest per annum on this amount from 1st November, 2017 till realisation of the amount.
- iii. The respondent -Insurance Company shall deposit the enhanced amount along with interest within six weeks after receipt of the order.
- iv. The claimants shall pay deficit court fees on the enhanced amount as per rule.

v. R & P be sent back to the Tribunal.

7. The appeal is disposed of. All pending applications, if any also disposed of.

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

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