IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1881 OF 2024

1. Savita Anil Dorle,]
   Age: 23 years, Occu: Household,]
2. Vaishali Anil Dorle,]
   Age: 5 years, Occu: Education,]
3. Ranjit Anil Dorle,]
   Age: 3 years, Occu: Nil,]
4. Sonabai Maruti Dorle,]
   Age: 47 years, Occu: Household,]

   Applicant Nos.2 & 3 minors & hence]
   Through Guardian mother Applicant No.1,]

   All R/o. Agalgaon, Tal. Kavathe – Mahankal,]
   District: Sangli.]

.... **Appellants - Claimants**

Versus

1. Chandrakant Gorakh Yadav (Owner),]
   Age: Major, Occ: Business,]
   R/o. 153/A, Hebbal-Jaldyal,]
   Tal. Sangli, District: Sangli.]
2. Kumar Ishwar Yadav (Driver),]
   Age: 44 years, Occu: Service,]

   Both R/o. Narale, Tal. Sangola]
   District: Solapur,]
3. Branch Manager,]
   Cholamandalam M. S. General Insurance]
   Company Limited., 6th Floor, Kapil Tower,]
   C-Wing, 45, Dr. Ambedkar Road, Pune,]
   Near R.T.O. Office, Pune.]

.... **Respondents**

Mr. Aditya Ghadge i/b Mr. Akshay Kulkarni,Advocate for the Appellants.
Mr. Rajesh Kanojia (Through VC), Advocate for the Respondent No.3 – Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd DECEMBER, 2025.

ORAL JUDGMENT. :

1. This appeal is preferred by the Appellants – Claimants for enhancement of compensation.

2. It is contention of learned counsel for the Appellants – Claimants that the deceased was sugarcane labourer and earning Rs.15,000/- per month, but the Tribunal has considered his monthly income at Rs.7,800/-, which is on lower side. Learned counsel further submitted that the consortium amount is awarded on lower side. The Tribunal has considered 10% contributory negligence of the deceased for not wearing helmet, but no evidence is produced on record to prove contributory negligence of the deceased. The Tribunal has awarded interest rate @ 6% per annum, it should be @ 9% interest per annum. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent –

Insurance Company that the deceased was sugarcane labourer. He was not skilled worker. No evidence is produced on record to prove the income of the deceased. The Tribunal has correctly considered notional monthly 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 both learned, perused impugned judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short, “the Tribunal”).

5. It is Claimant’s case that on 29th June, 2016, the deceased Anil Dorle was riding his motorcycle from Rajuri to Sangola on Miraj Sangli road. At the relevant time, the offending tempo came from wrong side and gave dash to the motorcycle of the deceased. Due to dash, the deceased sustained severe injuries and died while taking treatment. The offence was registered against the driver of offending tempo.

6. It is Claimant’s case that at the time of the accident, the deceased was 26 years old and he was sugarcane labour during off-season. The deceased used to earn Rs.15,000/- per month from his labour work, and he also used to sale sugarcane leaves and earned

Rs.200/- per day. He used to sell milk worth Rs.15,000/- per month. It is claimed that the deceased used to earn Rs.25,000/- to Rs.28,000/- per month.

7. To prove the income of the deceased, the Claimants have examined the Claimant No.1 – Savita Dorle, she has stated that the deceased was earning Rs.25,000/- to Rs.28,000/- per month. In support of her evidence, they Claimants have examined PW-2 Kailash Dorle employer of the deceased. He has stated that the deceased was working on his tractor as sugarcane labourer, he was paying Rs.15,000/- per month as wages to him. The deceased was earning Rs.25,000/- to Rs.28,000/- per month.

8. While dealing with the issue of income, considering evidence on record, the Tribunal has considered Rs.7,800/- as monthly income of the deceased. In my view, it is on lower side. The deceased was 26 years old and was maintaining family of five persons including himself. The sugarcane labourer is skilled worker. As per view of Hon'ble Apex Court in the Case of ***Shaikh Sadik Shaikh Rafique Vs. Reliance General Insurance Co. Ltd. And Ors. 2025 ACJ 1290***, I am considering Rs.12,000/- as monthly income of the deceased. The Tribunal has considered 10% contributory negligence

of the deceased, on the ground that at the time of accident, he was not wearing helmet. No evidence is produced on record to prove that the deceased was wearing helmet or not. Mere on the submissions of learned counsel for Respondent No.3 - Insurance Company, the Tribunal has deducted 10% amount for not wearing helmet, it is erroneous as no evidence is produced on record in that regard. Hence, I set aside the observations of the Tribunal of 10% contributory negligence of the deceased.

9. The Tribunal has not awarded future prospects. As per view of the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi 2017 ACJ 2700 (SC)***, the Claimants are entitled for 40% future prospects. The Tribunal has awarded consortium amount on lower side. As per view of Hon'ble Apex Court in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)***, each Claimant is entitled for consortium amount of Rs.48,000/-, for funeral expenses Rs.18,000/- and Rs.18,000/- for loss of estate.

10. Considering above calculations, the Claimants are entitled for following compensation.

Monthly income	Rs.12,000/-

Annual income (Rs.12,000/- X 12)	Rs.1,44,000/-
Multiplier 18 (Rs.1,44,000/-)	Rs.25,92,000/-
Add: 40% future prospects	Rs.10,36,800/-
Total income	Rs.36,28,800/-
Less : ¼ for personal deduction	Rs.9,07,200/-
Total amount	Rs.27,21,600/-
Consortium Rs.48,000/- X 3	Rs.1,92,000/-
Loss of estate	Rs.18,000/-
Funeral expenses	Rs.18,000/-
Total compensation	**Rs.29,49,600/-**
Less awarded by the Tribunal	Rs.16,62,000/-
Enhanced compensation	**Rs.12,87,600/-**

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

ORDER

i. The appeal is allowed.

ii. The Claimants are entitled for enhanced amount of Rs.12,87,600/- @ 7.5% interest from the date of filing claim petition till realization of the amount. Out of this amount Rs.2,28,000/- is consortium amount, the Claimants are entitled @ 7.5% interest on it from 1st November, 2017.

iii. The Respondent No.3 – Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within six weeks after receipts 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, if any, as per Rules.

vi. Record and Proceedings be sent back to the Tribunal.

12. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)