

Harish

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.774 OF 2024**

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- 1) Mr. Prakash Sahadeo Dhule,
63 Age yrs., Occ.: Nil, and
- 2) Smt. Jyoti Prakash Dhule,
Age 58 years, Occ. Housewife,
All R/o, At & Post Wayangni,
Tal. Malvan, Dist. Sindhudurg. ...Appellants

Versus

- 1) Keshav Nabaji Khude.
Age 32 years, Occ.: -Driver,
R/o. At & Post Nanadval,
Tal. Koregaon, Dist. Satara,
- 2) M/s. Southern India Transport Service,
Gala No. 13, B-3, 1st Floor,
Pritesh Compound, Walpada road,
Tal. Bhivandi, Dist. Thane
- 3) The New India Assurance Company
Guru Govind Nivas, Kalyan,
Through its Kudal Branch,
Tal. Kudal, Dist. Sindhudurg.
- 4) M/s. Maruti Travels,
Prop. Subhash J. Sawant, 604,
6th Floor, Kokan Vishav Bldg,
Kokan Nagar, Jogeshwari (E),
Mumbai
- 5) M/s. Future Generali India
Ins. Co. Ltd. IIIrd Floor,

East Wing, Forbes Building
Charanjeet Ray Marg, Fort Mumbai. ...Respondents

Mr. Hemant Ghadigaonkar for the Appellants.
Mr. Rajesh Kanojia i/b Res. Juris , for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th DECEMBER, 2025

JUDGMENT :-

1. This appeal is preferred by the appellants-claimants for enhancement of compensation amount.

2. It is contention of learned counsel for the appellants-claimants that the deceased was permanent employee of Shinrai Auto Service Ltd. Mumbai and getting salary of Rs.17,000/- per month. The salary certificate is produced on record, but the Tribunal has considered his salary on lower side. Learned counsel further submitted that the Tribunal has awarded consortium amount on lower side. The Tribunal considered the future prospects at 40% it should be 50%, hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent/insurance company that no documents are produced on record to prove the income of the deceased. The Tribunal has passed well reasoned order. No interference is

required in it, hence, requested to dismiss the appeal.

4. I have heard both the learned counsel, perused impugned judgment and order passed by the Tribunal.

5. It is claimant's case that the deceased was working as sales coordinator in Shinrai Auto Service Ltd. Mumbai and was getting salary of Rs.17,000/- per month. To prove it, the claimants have examined PW3-Siddhesh Haldankar. He has stated that the deceased was working in their company as sales coordinator and getting salary of Rs. 17,000/- per month. The salary certificate is at Exhibit-79. In cross-examination he has stated that he did not produce the appointment letter of the deceased.

6. While dealing with the issue of income of the deceased, the Tribunal has observed that no appointment letter of the deceased was produced on record and in salary certificate bank account number is mentioned, but bank account statement is not produced on record. On that ground the Tribunal has considered the notional monthly income of the deceased at Rs. 10,000/-. I am unable to understand the observations of the Tribunal as PW-2, who is the employer of the deceased has

categorically stated that the deceased was working in their company, it supports the claimant's case. The salary certificate is at Exhibit 78 mentions the bank account number. Not producing the bank statement, cannot be said that the deceased was not getting salary. The observations of the Tribunal are perverse. Considering the evidence on record, I am considering the monthly income of the deceased at Rs. 17,000/-.

7. While awarding the compensation, the Tribunal has considered future prospects at 40%. At the time of incident, the deceased was 34 years old. He was permanent employee. As per the view of Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi 2017 ACJ 2700 (SC)***, the claimants are entitled for 50% future prospects. 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 Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)***, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- funeral expenses and Rs.18,000/- for loss of estate.

8. It is contention of learned counsel for the respondent-insurance company that the interest rate awarded by the

Tribunal is on higher side, it should be on lower side. I find merit in it. The Tribunal has awarded 9% per annum interest rate, I am considering it at 7.5% per annum.

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

Monthly Salary Income	Rs.17,000/-
Less Professional Tax	Rs.200/-
Net Income	Rs. 16800/-
Add: 50% future prospects (Being permanent employee)	Rs.8,400/-
Total Annual Income	Rs.25,200/-
Less 1/3 deduction towards personal expenditure	Rs.8,400/-
Total Monthly Income	Rs.16,800/-
Total Annual Income (Rs.16,800/-X12)	Rs.2,01,600/-
Multiplier 16 (Rs.2,01,600/- X 16)	Rs.32,25,600/-
Loss of consortium Rs.48,000/- X 2 (2 Claimants)	Rs.96,000/-
Funeral Expenses	Rs.18,000/-
Loss of Estate	Rs. 18,000/-
Total amount of compensation	Rs.33,57,600/-
Less awarded by the Tribunal	Rs.18,22,000/-
Enhanced compensation	Rs.15,35,600/-

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

ORDER

- I. The First Appeal is allowed.
- II. The appellant/claimants are entitled to enhanced compensation of **Rs.15,35,600/-**

@ 7.5% interest from the date of filing claim petition till realization of the amount. Out of this amount, **Rs.1,32,000/-** is consortium amount, the claimants' are entitled @ 7.5% interest on it from 1st November 2017, till realization of the amount.

- III. The respondent/insurance company shall deposit the enhanced compensation amount along with accrued interest thereon, within six weeks after receipt of this order.
 - IV. The appellants/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 Rule.
 - VI. Record and Proceedings be sent back to the Tribunal.
11. In view of the above, the appeals are allowed and disposed off.
12. All pending applications, if any, stand disposed off.

[SHIVKUMAR DIGE, J.]