

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1237 of 2025

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|---|---|-----------------------------------|
| 1 | Hema w/o Lalit Thapa,
Age 32 years, Occ-Household. | |
| 2 | Nishika s/o. Lalit Thapa,
Age 4 years, Occ-Nil,
No.2 minor through No.1 his natural guardian,
Both R/o. CISF Residential Complex,
Nehru Nagar, Nashik Road,
Tal. Dist.Nashik |Appellants
(Ori.Claimants) |

Versus

- | | | |
|---|---|-------------------------------------|
| 1 | Pradeep B. Singh,
Age :- Major, Occ : Business,
Vehicle Owner, R/o. Opp. D.D. Hajare
Compound,
Kon Village, Kalyan,
Kalyan – 421301.
Maharashtra State. | |
| 2 | Divisional Manager,
Reliance General Insurance,
Anil Dhirubhai Ambani Group,
Address : Old Agra Road,
Opp. Kalika Manir,
Nashik – 422 002. | |
| 3 | Rampyari Rambahadur Thapa,
Age : 58 years, Occ : Household,
R/o. C-83, Dyan Mandir Road,
Behind Pandey Haridwar Shop,
Jaitpur Extension,
New Delhi – 44. |Respondents
(Ori. Opponents) |

Mr. Yogesh Pande, Advocate for the Appellant.

SHUBHADA SHANKAR KADAM Mr. Akshay Kulkarni, Advocate for the Respondent No.2-Insurance Company.

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Date: 2025.07.11
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CORAM : SHIVKUMAR DIGE, J.

DATE : 1st JULY, 2025.

Judgment :

1. The issues involved in this appeal is consortium amount is awarded on lower side and deduction of 20% amount from future prospects.
2. It is contention of learned counsel for the appellants/claimants that the deceased was the permanent employee, the Tribunal has considered 50% future prospects but out of the said amount, 20% is deducted by way of tax, which is erroneous. Learned counsel further submitted that the Tribunal has awarded consortium amount, funeral expenses and amount towards loss of estate on lower side, it be awarded and requested to allow the appeal.
3. It is contention of learned counsel for respondent No.2- Insurance Company that the Tribunal has passed well reasoned order, no interference is required in it. Learned counsel further submitted that the claim petition was filed by the two appellants and the mother of the deceased was added as respondent later on, so consortium amount cannot be granted to her. Hence, requested to dismiss the appeal.
4. I have heard both learned counsel, perused the impugned judgment and order passed by Motor Accident Claims Tribunal, Nashik (for short "the Tribunal").

5. While awarding compensation, the Tribunal has considered 50% future prospects for the claimants but deducted 20% amount by way of tax and has observed that 30% of the income can be added to the basic income of the deceased. I am unable to understand the observations of the Tribunal deducting 20% amount for tax out of 50% future prospects, it is erroneous. 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. The Tribunal has applied multiplier of 14. At the time of the accident, the age of the deceased was 37, hence, the proper multiplier is 15, hence, I am considering the multiplier of 15.

6. 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.

7. It is the contention of learned counsel for respondent No.2- Insurance Company that respondent No.3, mother of the deceased, is not entitled for consortium amount. In my view, she is the mother of the deceased, hence, she is entitled for consortium amount of Rs.48,000/-.

8. Considering the above calculations, the claimants and respondent No.3 are entitled for following compensation :

Particulars	Rs.	Amount
Annual Income (Rs.8803/- x 12)	Rs.	1,05,636.00
50% future prospects	Rs.	52,818.00
Total	Rs.	1,58,454.00
1/3rd deduction towards personal expenses	Rs.	52818.00
Total	Rs.	1,05,636.00
Rs.1,05,636/- x 15(multiplier)	Rs.	15,84,540.00
Consortium (Rs.48,000/- x 3 (dependents))	Rs.	1,44,000.00
Funeral Expenses	Rs.	18,000.00
Loss of Estate	Rs.	18,000.00
Total Compensation	Rs.	17,64,540.00

The Tribunal has awarded Rs.12,93,000/-, if this amount is deducted from the amount of Rs.17,64,540/- considered by this Court, it comes to Rs.4,71,540/-. The claimants and respondent No.3 are entitled for this amount.

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

ORDER

- (1) The appeal is allowed.
- (2) The claimants and respondent No.3 are entitled for enhanced compensation of Rs.4,71,150/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount. Out of this amount, Rs.1,80,000/- 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.2-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.
 - (4) The claimants and respondent No.3 are permitted to withdraw the enhanced amount along with accrued interest thereon as apportioned by the Tribunal.
 - (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.)