

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

FIRST APPEAL NO.674 OF 2024

1. Smt.Rekha Rajesh Dubey	}
Age-33 years, Occ: Housewife	}
	}
2. Miss Anchal Rajesh Dubey	}
Age-16 years, Occ: student	}
	}
3. Master Jeet Rajesh Dubey	}
Age-14 years, Occ: Student	}
	}
4. Master Shreejal Rajesh Dubey	}
Age-11 years, Occ: Student	}
	}
Appellant Nos.2 to 4 being minors through	}
Appellant No.1	}
	}
All R/oS.No.59/2/8/2 Sainagar, Shankar	}
Mandir, Kondava Budruk, Pune-48	}

Appellants

Versus

1. Mr.Giriraj Kumar Mehta	}
Age-Adult, Occ: Business,	}
R/at 85, Sirasod Khurd, Shivpuri Road,	}
Taluka-Shahbad, District-Baran,	}
Pin-325 219 (Rajasthan)	}
 2. HDFC Egro General Insurance Co. Ltd.	}
Office at 6 th Floor Leela Business Park,	}
Andheri Kurla Road, Andheri (East),	}
Mumbai-400 059	}

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3. **Mr.Premshankar Ramsurat Dubey** }
 Age-70 years, Occ: Nil }
 (Deleted Since deceased) }
 (amendment carried out as per Court order }
 dated 05/08/2025) }
4. **Mrs.Durgavati Premshankar Dubey** }
 Age-62 years, Occ: Nil }
 (FA stand dismissed as against Respondent }
 No.4 vide RJ-I order dated 22-8-2024) }
 }
 R/No.3 and 4 R/at S.N.59/2/8/2 }
 Sainagar, Shankar Mandir, Kondava }
 Budruk, Pune-48 }Respondents

 Ms.Ketki Gokhale i/b Mr.Avinash M. Gokhale, for the Appellant.
 None for the Respondents.

CORAM : R.M. JOSHI, J.

DATE : 26th NOVEMBER 2025

ORAL JUDGMENT :-

1. None for Respondent No.2 inspite of the service of notice, which indicates that, the Respondents have no inclination to oppose the Appeal and hence proceeded in their absence.

2. Heard learned counsel for the Appellant.

3. Motor Accident Claims Tribunal No.284 of 2016 came to be filed by Appellant/Claimant for seeking compensation

on account of death of deceased in Motor vehicular accident occurred on 12th June 2015. According to the Claimants on fateful day Rajesh was driving his Santro Car bearing No.MH-12-D-2714 with his relatives towards Ujjain. When he reached at village Samariya (Rajasthan), tractor bearing registration No.RJ-28-RB-0918 coming from opposite side in rash and negligent, manner dashed the car of deceased. Tractor was being driven without head lights. Rajesh died in the said accident.

4. The learned counsel for the Claimants contended that, age of deceased was 43 years and he was doing business of running a driving school and earning Rs.20,000/- per month, on different heads compensation of Rs.30 lakhs claimed.

5. The Opponent filed Written Statement at Exhibit-21.

6. The Claimants led evidence by filing affidavit at Exhibit-28 and filed registration certificate of four cars and three motorcycles issued by RTO at Exhibit-40 to 47.

7. The Tribunal allowed claim to the extent of Rs.20,10,000/-. The Claimants are aggrieved by the quantum and hence preferred Appeal under Section 173 of M.V. Act

seeking enhancement thereof.

8. It is contention of the learned counsel for the Appellant that, the enhancement is sought on the ground that, the Tribunal has committed an error in not accepting the income of the deceased at Rs.20,000/- per month, though, there was no challenge made by the Opponents to the said statement of the Claimant on the oath. In this regard, reference is made to the observations made by the Tribunal in Paragraph No.10 of the Judgment. She placed reliance on judgment of Supreme Court in case of *Mamata Devi & Ors V/s. The Reliance General Insurance Co. Ltd. & Anr.*¹

9. She further contends that, the Claimants are entitled to receive 25% of additional compensation towards future income which has not been granted by Tribunal. To support the said submission, she placed reliance on judgment of the Hon'ble Supreme Court in case of *National Insurance Co. Ltd. vs. Pranay Sethi*². It is also argued that, the Claimants were not paid consortium, as per the judgment of the Supreme Court in case of

¹ Civil Appeal No.3904 of 2023 decided on 19th May 2023

² 2017 ACJ 2700 (SC)

***Magma General Insurance Co. Ltd. vs. Nanu Ram*³,**

10. There is no dispute with regard to the fact that, the judgment and award passed by the Tribunal dated 11th June 2018 in MACP No.284 of 2016 has not been taken exception to by the Respondents/Original Opponents. Thus issue involved in this Appeal is as to whether the Tribunal has committed error in not considering the income of the deceased @ Rs.20,000/- per month, future prospects & consortium.

11. Perusal of the judgment impugned indicates that, the Claimants have specifically stated about deceased running driving school and earning Rs.20,000/- per month and there is no denial during the cross-examination on the part of the Occupants to the income of deceased. There is no challenge to the correctness of the said findings recorded by Tribunal. Thus, it is clear there is no denial of the income, as claimed by Claimants and therefore Tribunal ought to have accepted the income of the deceased @ Rs.20,000/- per month.

12. Apart from this, the judgment and award indicates

³ 2018 ACJ 2782 (SC)

that, future prospects are not considered while computing the amount of compensation. There is evidence on record to indicate that deceased was doing business and owing to his age, Claimant would be entitled to additional compensation for future prospects to the extent of 25%, in view of the judgment in case of *Pranay Sethi (Supra)*. Similarly, the filial consortium has not been paid to the children and parents. In view of the judgment *Magma General (Supra)*, they are entitle to receive the same. Appellants therefore have made out case for enhancement of compensation.

13. In view of the above, the Appeal stands allowed in the following terms. The Appellants shall be entitled to receive compensation as follows jointly and severally, from Respondents/Original Opponents.

Annual Income (Rs.20,000/- x 12)	Rs.2,40,000.00
1/4th Deduction for Personal Expenses	Rs.1,80,000.00
Add : 25% future prospects (Age-42, Self Employed)	Rs.2,25,000.00
X Multiplier	Rs.31,50,000.00
Loss of Consortium (Six Dependents)	Rs.2,88,000.00
Expenses to carry dead body (Rs.35,000 + Rs.15,000)	Rs.50,000.00
Loss of Estate	Rs.15,000.00
Funeral Expenses	Rs.15,000.00
Total	Rs.35,18,000.00

Less :Awarded by the Tribunal	Rs.20,10,000.00
Enhanced Amount	Rs.15,08,000.00

14. Over and above compensation granted by Tribunal, Appellants/Claimants are entitled to receive a sum of Rs.15,08,000/- along with interest @ 7% per annum till date of Application till realization.

15. All pending Applications are disposed of.

(R.M. JOSHI, J.)