

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

FIRST APPEAL NO.799 OF 2024

ICICI Lombard General Insurance Co. }
Ltd., }
 2nd Floor, Office No.203, Meher House }
 No.15, Cawasji Patel Street, Opp. Akbar }
 Ali Furniture, Fort, Mumbai-400 001. }
 Having Office At 2nd Floor, Sohrab Hall }
 Sangam Wadi, Tp Scheme Sagoon Road, }
 Opp. Jehangir Hospital, Pune. } **Appellant**

**NILAM
SANTOSH
KAMBLE**

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Versus

1. Reena Satish Kamble }
 Age-35 years, Occ: Housewife }
 }

2. Satish Machindra Kamble }
 Age-42 years, Occ: Business }
 }

3. Riya Satish Kamble }
 Age-12 years, Occ: Education }
 Applicant no.1 herein for self and as }
 mother and guardian of Applicant No.2 }
 herein }
 All R/at PO Kalas, Taluka-Indapur, }
 District-Pune, }
 Presently R/at Sai Niketan Building, Plot }
 No.15, Laxmi Narayan Nagar, Chaholi Bu, }
 Taluka-Haveli, District-Pune. }
 }

4. Dilip Gopal Gibile }
 Age-45 years, Occ: Ownership }

R/at P.O. Vadmukhwadi, Chaholi, Bu }
Taluka-Haveli, District-Pune. } **Respondents**

Ms.Varsha Chavan, for the Appellant (Through VC).
None for Respondents.

CORAM : R.M. JOSHI, J.

DATE : 9th DECEMBER 2025

ORAL JUDGMENT :

. None for the Respondents in spite of the service of notice. Hence proceeded ex-parte against the Respondent.

2. This Appeal is filed by the Insurer against the judgment and award dated 19th December 2019 passed in MACP No.102 of 2018 whereby the compensation of Rs.8,94,000/- came to be granted in respect of death of deceased aged about 14 years.

3. The learned counsel for the Appellant submits that, the Tribunal has accepted the notional income of the deceased at higher rate. She further argues that, obviously considering the age of the deceased, he was unmarried and therefore half of the income ought to have been deducted towards his personal

expenses. On these amongst other grounds the setting aside of the impugned judgment and award is sought.

4. From the perusal of the record it is seen that, the deceased was aged about 14 years and even the Claimants do not claim that he was doing any work and earning income. The record further indicates that, at the time of occurrence of the accident he was traveling in the school bus which is sufficient to hold that, he was school going boy and with no independent income. In such circumstances, the Tribunal was required to take into consideration the notional income. Having regard to the trail of judgments of the Hon'ble Supreme Court, for now, the said assessment is not excessive. Insofar as the deduction of the 1/3rd income is concerned the same is not in consonance with the law laid down in case of *Sarla Verma & Ors vs Delhi Transport Corp.& Anr.*¹. Having regard to the said position of law the amount of compensation is required to be determined on the basis of deduction of half of the income towards his personal expenses. Hence, following calculation :-

1 *AIR 2009 SC 3104*

Annual Income (Rs.6,000/- x 12)	Rs.72,000.00
Less : ½ Income towards personal expenses	Rs.36,000.00
Multiplier of 18 as per Pranay Sethi Rs.36,000 x 18	Rs.6,48,000.00
Loss of Estate	Rs.15,000.00
Funeral Expenses	Rs.15,000.00
Total	Rs.6,78,000.00

5. In view of this, the Appeal stands partly allowed in the following terms.

ORDER

- (i) The Appeal is partly allowed.
- (ii) The impugned judgment and award dated 19th December 2019 passed by Motor Accident Claims Tribunal, Mumbai ('MACT' for short) in MACP No.102 of 2018 is modified.
- (iii) The original Claimants are entitled for compensation of Rs.6,78,000- @ 7.5% interest per annum from the date of filing Claim Petition till realization of the the amount.

(iv) The Original Claimants are permitted to withdraw the modified amount along with accrued interest thereon.

(v) The Appellants are permitted to withdraw excessive amount, if any, deposited before the Court.

(vi) The Claimant shall be entitled to recover additional Court Fees, if paid, as per Rules.

(vii) Record and Proceedings be sent back to the Tribunal.

6. All pending Applications are disposed of.

(R.M. JOSHI, J.)