

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1758 of 2025**

- 1 Primal Rohitkumar Yadav,
Aged about 37 years.
- 2 Ritikumar Rohitkumar Yadav,
Aged about 21 years.
- 3 Deepanshu Rohitkumar Yadav,
Aged about 20 years.
- 4 Jaldhari Dyaneshwar Yadav,
Aged about 64 years.
- 5 Beladevi Jaldhari Yadav,
Aged about 62 years.

Orig.
Claimants
Appellants

All R/at : Yadav Nagar, Krishna Chawl,
Airoli, Navi Mumbai.

versus

- 1 Maharashtra State Road Transport Corporation,
Belassis Road, Mumbai Central,
Mumbai – 400 005.
- 2 Namdeo Damaji Mokal,
Adult, Occupation : Driver,
R/at Roha, Tal. Roha,
Dist. Raigad

.... Respondents

Ms. Ketki Gokhale, Advocate for the Appellants.

Mr. Sumedh S. Gaikwad i/b. Mr. Dhanajayrao Rananaware, Advocate for Respondents.

CORAM : R. M. JOSHI, J.

DATE : 5th DECEMBER, 2025.

Judgment :

1. This appeal is for enhancement of the compensation granted by the Tribunal by judgment and award dated 21st November 2018 in M.A.C.P.No.997 of 2007.

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2. The appellants are claimants and they seek enhancement of Compensation on the following grounds :

1. That the Tribunal has wrongly held the driver of the tanker i.e. deceased to be negligent to the extent of 40%.
2. Future prospects are not considered.
3. Filial consortium is not claimed.

3. Learned counsel for the claimants has drawn attention of the Court to the observations of the Tribunal in paragraph 11 relying upon the statements of witnesses to the accident. According to her, the said statements indicate that the S.T. Bus was being driven in high speed and as the driver lost control over the said vehicle, it gave dash to the vehicle driven by the deceased. It is her contention that the Tribunal has committed error in accepting the negligence to the extent of 40% solely on the ground that damage was caused to both vehicles. With regard to future prospects, it is her contention that as per the view of Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC)**, the claimants are entitled for the same. Similarly, reference is made to the judgment of Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)**, to seek filial consortium which is not directed to be paid by the Tribunal.

4. Learned counsel for the respondent No.1-MSRTC opposed the appeal. It is submitted that the Tribunal has recorded findings on the basis of evidence on record and hence, the same does not require any interference. Insofar as the other claims, the appeal is opposed.

5. At the outset, it needs to be recorded that the MSRTC has not taken exception to the findings recorded by the Tribunal in the impugned judgment and award.. In paragraph 11 of the award, the Tribunal has specifically recorded the statements of two witnesses indicating that the State Transport bus was being driven at high speed and after having lost control over the vehicle, it dashed against the vehicle driven by the deceased. This Court finds substance in the contention of learned counsel for the appellant that in view of the said evidence, no negligence could have been attributed to the deceased. The Tribunal has committed an error in attributing the negligence to the extent of 40% against the deceased only on the ground that both vehicles were damaged. Obviously, if two vehicles collided, damage would be caused to both vehicles but that does not lead to inference that both drivers are negligent unless proved so. The evidence on record and more particularly, the findings recorded by the Tribunal do not indicate any negligence on the part of the deceased in the occurrence of the accident.

6. There is no dispute about the fact that the deceased was aged about 27 years at the time of the accident. The Tribunal has considered

notional income for the purpose of computation of compensation amount, however, the future prospects are not granted in view of the judgment in case of **Pranay Sethi(supra)**. The claimants, therefore, are entitled to receive future prospects to the extent of additional 40% amount. Similarly filial consortium has not been granted. In view of the judgment in case of **Magma General Insurance Co. Ltd.(supra)**, the claimants are entitled for the same.

7. The Tribunal has applied multiplier of 18 incorrectly. Having regard to the age of the deceased and in view of principles laid down in **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. reported in (2009) 6 SCC 121**, the correct multiplier would be 17, as deceased was aged 27 years.

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

Particulars	Rs.	Amount
Annual Income (Rs.4000/- x 12)	Rs.	48,000.00
40% future prospects	Rs.	19,200.00
Total	Rs.	67,200.00
1/4 deduction towards personal expenses	Rs.	16,800.00
Total	Rs.	50,400.00
Rs.50,400/- x 17 (multiplier)	Rs.	8,56,800.00
Consortium (Rs.48,000/- x 5 (claimants))	Rs.	2,40,000.00
Funeral Expenses	Rs.	15,000.00
Loss of Estate	Rs.	15,000.00
Pain and suffering	Rs.	10000.00
Total Compensation	Rs.	11,36,800.00
Less Awarded by Tribunal	Rs.	4,36,800.00
Enhanced Compensation	Rs.	7,00,000.00

The Tribunal has awarded Rs.4,36,800/-, if this amount is deducted from the amount of Rs.11,36,800/- considered by this Court, it comes to Rs.7,00,000/-. The claimants are entitled for this amount.

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

O R D E R

(1) The appeal is partly allowed. The impugned judgment and award dated 21st November 2018 in M.A.C.P.No.997 of 2007 is modified in following terms :

(i) The original claimants are entitled for enhanced compensation of Rs.7,00,000/-@ 7.% interest per annum from the date of filing claim petition till realisation of the amount.

(ii) Respondent No.1-MSRTC shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the receipt of this order.

(iii) The original claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.

(iv) The claimants shall pay deficit court fees on enhanced amount, if any, as per Rule.

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

9. Pending applications, if any, stand disposed of.

(R. M. JOSHI, J.)