IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1671 OF 2025

1	Beena Suresh Marothiya Mother of the deceased, Aged : 48 years		
2	Dilasha Suresh Marothia Sister of the deceased, Aged: 18 years Both residing at Santosh Apartment, A Wing, 1st Floor, Room No.1, Adharwadi Road, Opposite Anubhav Restaurant, Kalyan (W).	…	Appellants
	versus		
1	Sanjay Avadhabihari Singh Residing at Khetrajpur Village, Post Ondhanpali, Dist. Sambalpur, Orissa		
2	Akhilesh Bijay Singh Residing at Krishnanagar, Khetrajpur, Sambalpur – 768001, Post Ondhanpali, Orissa		
3	Magma HDI General Insurance Company Ltd. Magma House, 24 Part Street, Kolkatta - 700016		
4	Oriental Insurance Co. Ltd. Kalyan Divisional Office, Dutta Niwas, Ganesh Baug, Kalyan, Murbad Road, Kalyan	….	Respondents

………..

Ms. Ketki Gokhale i/b. Mr. A. M. Gokhale, Advocate for the Appellants.
Smt. Kalpana Trivedi a/w. Ms. Rajlaxmi Shettigar, Advocate for the Respondent No. 3 Insurance Company.

CORAM : R. M. JOSHI, J.

DATE : 10th DECEMBER, 2025.

ORAL JUDGMENT :

1. This appeal is filed for enhancement of compensation granted by the Tribunal in Judgment and Award dated 05.01.2023 in M.A.C.P. No. 130 of 2013 on the ground that the Tribunal has committed error in accepting the notional income @Rs.5,000/- which according to appellant should have been considered @Rs.8,000/- in view of the Notification issued by Government of India dated 31.05.2010. Learned counsel for the appellant placed reliance on the Judgment of Hon'ble Supreme Court in the case of ***Parshuram @ Pankaj Singh Vs. Sanjay Singh Parihar & Anr.,*** in Civil Appeal No. 23 of 2025 (Arising out of SLP © No. 113 of 2025.)

2. It is argued by learned counsel for the appellants that the Tribunal ought to have deducted 1/3rd amount towards personal expenses of the deceased in view of the fact that his mother and sister were dependent upon him. It is further argued that consortium has not been paid to the claimant No.2. Exception is also taken to the impugned Judgment and Award on the ground that interest granted on compensation is on lower side.

3. Learned counsel for respondent No.3/ insurer opposed the appeal with submissions that since claimants have failed to prove the income of the deceased, the notional income is rightly considered. On the point of deduction, it is contended that there are two persons said to have been dependent upon the deceased, hence deduction towards the personal expenses as considered by the Tribunal is correct.

4. There is no dispute between the parties with regard to occurrence of accident, involvement of offending motor vehicle and insurance thereof. Similarly, it is established before Tribunal that deceased sustained injuries in said accident and succumbed thereto.

5. Perusal of the evidence on record as well as the observations made by the Tribunal in the impugned Judgment and Award indicate that the claimants have failed to prove the employment and income of the deceased. The witnesses examined to support the said contentions were not able to establish existence of the establishment where employment is claimed. In such circumstances, the Tribunal has not committed error in rejecting the case of the claimants on that count. Tribunal however has considered notional income of the deceased @3,000/- which should have been @Rs.8,000/- in view of the Notification dated 31.05.2010. The compensation therefore needs to be computed on the basis of notional income of Rs.8,000/- with future prospects. In view of judgment in case of ***National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700(SC)***. This Court finds no error committed in deducting ½ income towards the personal expenses and living expenses of the deceased, in view of the fact that the mother and sister i.e. only two persons were depending upon him.

In so far as the non payment of the consortium to two claimants is concerned, the same deserves to be granted. The Appellate Court is expected to cause interference in the order passed by the Tribunal provided the same is perverse. The grant of interest @6% is not perverse in order to cause interference therein.

6. In view of above, claim stands partly allowed. Claim stands modified in the following terms :

Particulars	Rs.	Amount
Annual Income (8,000 X 12)	Rs.	96,000/-
½ Personal expenses	Rs.	48,000/-
(+) 40% Future prospects	Rs.	67,200/-
Multiplier of 18 (Rs. 67,200 X 18)	Rs.	12,09,600/-
Loss of consortium	Rs.	88,000/-
Loss of Estate	Rs.	16,500/-
Funeral Expenses	Rs.	16,500/-
Total	Rs.	13,30,600/-
Compensation awarded by Tribunal	Rs.	5,30,600/-
Enhanced compensation	Rs.	8,00,000/-

7. In view of above following order:

ORDER

i. The appeal is allowed. The impugned Judgment and Award dated 05.01.2023 in M.A.C.P. No. 130 of 2013 is modified in following terms.

ii. The claimants are entitled for enhanced amount of

Rs.8,00,000/- @6% interest p.a. from the date of filing claim petition till realisation of the amount.

iii. Rest of the Judgment and Award to remain unchanged.

iv. Respondent shall deposit the enhanced amount along with accrued interest thereon within 8 weeks from the date of receipt of this order.

v. The claimants are permitted to withdraw the enhanced amount along with accrued interest thereon

vi. The claimants shall pay deficit court fees on enhanced amount, if any as per rule.

vii. R & P be sent back to the Tribunal.

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

(R. M. JOSHI, J.)