IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.223 OF 2025

Bajaj Alliance General Insurance Co. Ltd.
Rustomji Aspire, 2nd Floor, Everad Nagar,
Near Apex Honda Showroom,
Near Priyadarshani Circle of Eastern
Express Highway, Chunabhatti,
Sion, Mumbai 22. … Appellant

Versus

1. Ujwala Vinayak Patil
   Age- 43 years, Occu: Household
2. Shivanjali Vinayak Patil
   Age – 40 years, Occu: Household
   Res. Nos. 1 and 2 are residing at
   Building No. 12/1002. … Respondents

Mr. Sarthak S. Diwan, for the Appellant.

Mr. T. J. Mendon, for the Respondent Nos. 1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 27th JUNE, 2025

JUDGMENT :-

1. The issues involved in this Appeal are deduction of the amount for personal expenses and at the time of accident the deceased was under influence of liquor.

2. It is contention of learned Counsel for appellant that at the time of accident deceased was bachelor, the Tribunal should have deducted one half amount for personal expenses but the Tribunal has deducted one third amount, which is erroneous.

3. Learned Counsel further submitted that at the time of accident, the deceased was under influence of liquor but this fact has not been considered by the Tribunal. Hence, requested to allow the Appeal.

4. It is the contention of learned Counsel for the respondent-claimant that the learned Tribunal has relied on the judgment of Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Birender and Others, 2020 ACJ 759, (para 20),** and deducted one third amount for personal expenses, which is proper. Learned Counsel further submitted that no Chemical Analysis Report was produced before the Tribunal to prove that the deceased was under influence of liquor at the time of accident. Hence, requested to dismiss the Appeal.

5. I have heard both the learned Counsel. Perused the judgment and order passed by the Motor Accident Claim Tribunal, Raigad- Alibag (for short ' the Tribunal).

6. While dealing with the issue of personal deduction, the Tribunal has deducted 1/3 amount for personal expenses but, it is erroneous. It is the settled principle of law that if the deceased is bachelor, the personal deduction should be one half. Hence, I am considering one half for personal expenses.

7. In respect of issue that at the time of accident, the deceased was under the influence of liquor, no evidence is produced on record by the Insurance Company nor there is whisper in the police papers about it. Hence, I do not find merit in it. Considering the half amount for personal expenses the excess amount comes to Rs. 19,67,882/-. The Claimants are entitled for following compensation.

Sr. No.	Heads	Rightful Consideration
1.	Annual Income of deceased	Rs.6,98,656/-
2.	Future prospectus	30%
3.	**Deduction towards personal expenses**	**½**
4.	Multiplier	13
5.	Consortium	Rs.80,000/-
6.	Loss of Estate	Rs.15,000/-
7.	Funeral Expenses	Rs.15,000/-
8.	Hospital and Chemists Bills	Rs.4,85,355/-
9	Rate of Interest	7%
	TOTAL	**Rs.64,98,998/-**

8. The Tribunal has awarded Rs.84,66,880/-. If the amount of Rs.64,98,998/- is deducted from Rs. 84,66,880/-, it come to

Rs.19,67,882/-. This is an excess amount. The appellant-Insurance Company is entitled for this amount.

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

ORDER

(i) The Appeal is partly allowed.

(ii) The appellant-Insurance Company is permitted to withdraw Rs. Rs.19,67,882/- along with proportionate interest thereon out of the deposited amount.

(iii) The respondents-claimants are permitted to withdraw the balance amount of Rs.64,98,998/- along with proportionate interest thereon.

(iv) The statutory amount along with interest be transferred to the Tribunal. The parties are at liberty to withdraw it as per Rules.

(v) R & P be sent back to the Tribunal.

(v) Pending applications, if any, stand disposed of.

[SHIVKUMAR DIGE, J.]