

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.861 OF 2025

Cholamandalam MS Gen. Ins. Co. Ltd.)
 Hydraulic Mobile, Crane No. MH09CL 3353)
 Issuing and branch office – Mouni Vihar)
 Apartment, 13,14,15 CS No. 1146/B, E ward,)
 Takala Chowk, Tal. Karveer, Kolhapur – 416)
 001)
 Policy No. 3380/00918138/000/00) Appellant
 Policy Period – 24/12/2015 to 23/12/2016)... (Insurer)
 Versus

- 1 Sangita Macchindra Gulave)
 Aged : 42 Years, Occ : Housewife)
 R/o. Shindewadi – 413 506,)
 Post : Keshegaon, Tal & Dist. Osmanabad)
- 2 Balaji Macchindra Gulave)
 Age 22 years, Occ : Education)
 R/o. As above)
- 3 Swapnil Macchindra Gulave)
 Age 19 years, Occ : Education)
 R/o. As above)
- 4 Ranjeet Raosaheb Shelke)
 Age : Major, Owner of Hydraulic Mobile crane)
 R/o. Kaneriwadi, Tal. Karveer, Dist - Kolhapur)
- 5 Jitendrakumar Rajendra Gond)
 Age 23 years, Occ – Driver of hydraulic)
 Mobile Crane, R/o. S. No.192, Chakrapani)
 Colony, Bhosari – 411039, Pune, Dist. Pune)
 (Present Respondent No.1 to 3 being original)
 Claimants and Respondent No.4 & 5 being)
 original opposite party No.1 and 3)
 respectively))... Respondents

**SHUBHADA
SHANKAR
KADAM**

Mr. Rajesh Kanojia i/b. Res Juris, Advocates for the Appellant.
 Mr. Pritesh K. Bohade, Advocate for Respondent Nos.1 to 3./Claimants.

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th AUGUST, 2025.

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SHUBHADA
SHANKAR KADAM
Date: 2025.08.14
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Judgment :

1. This appeal is preferred by the appellant-Insurance Company against the Judgment and Order passed by the Motor Accident Claims Tribunal, Kolhapur (for short "the Tribunal").

2. It is contention of learned counsel for the appellant-Insurance Company that the Tribunal has considered monthly income of the deceased at Rs.25,000/- per month without any evidence on record. If the claimants concede for considering the income of deceased at Rs.15,000/- per month, this appeal can be disposed of.

3. Learned counsel for respondents Nos.1 to 3/claimants submitted that the claimants are ready to accept the monthly income of the deceased at Rs.15,000/- pm. He further submitted that the Tribunal has awarded consortium amount on lower side, it be awarded and requested to dispose of the appeal.

4. I have heard both learned counsel, perused the judgment and order passed by the Tribunal.

5. Both learned counsel are agreeable if the monthly income of the deceased is fixed at Rs.15,000/- instead of Rs.25,000/- considered by the Tribunal. Hence, I am considering monthly income of the deceased at Rs.15,000/-.

6. The Tribunal has awarded consortium amount on lower side. As per the view of Hon'ble Apex Court in **Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)**, each claimant is entitled

for Rs.48000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18000/- for funeral expenses.

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

Particulars	Rs.	Amount
Annual Income (Rs.15,000/- x 12)	Rs.	1,80,000.00
25% future prospects	Rs.	45,000.00
Total	Rs.	2,25,000.00
1/3rd deduction towards personal expenses	Rs.	75,000.00
Total	Rs.	1,70,000.00
Rs.1,50,000/- x 13(multiplier)	Rs.	19,50,000.00
Consortium (Rs.48,000/- x 3 (claimants))	Rs.	1,44,000.00
Funeral Expenses	Rs.	18,000.00
Loss of Estate	Rs.	18,000.00
Total Compensation	Rs.	21,30,000.00

If Rs.21,30,000/- considered by this Court is deducted from Rs.33,20,000/- granted by the Tribunal, it comes to Rs.11,90,000/-. This is an excess amount, which the appellant-Insurance Company is entitled to.

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

O R D E R

- (1) The appeal is allowed.
- (2) The appellant/Insurance Company is permitted to withdraw Rs.11,90,000/- along with proportionate interest thereon out of the deposited amount.

- (3) Respondent Nos.1 to 3/claimants are permitted to withdraw the balance amount with proportionate interest thereon.
- (4) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
The first appeal stands disposed of.
- (6) Record and Proceedings be sent back to the Tribunal.
- 8. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)