IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1486 OF 2025

1. Alaka Goutam Kamble,]
Age: 44 years, Occ: Housheold,]
R/o. Pattankodoli, Tal. Hatkanangale,]
Dist: Kolhapur.]

2. Shivtej Goutam Kamble,]
Age: 15 years, Occ: Education,]
R/o. As above.]

3. Nanubai Shiva Kamble]
(Deleted).]

.... **Appellants**
(Original Applicants)

Versus

1. Sneh Kiran Desai]
Age: Major, Occ: Business,]
R/o. Snehkiran Plot No.90,]
Arunodaya Co.Op. Hsg. Society,]
Shahu Park, Rajendranagar,]
Kolhapur 416 001.]

2. The New India Assurance Company Limited]
Divisional Office, In front of the M. J.]
Market, Rajaram Road,]
Kolhapur.

3. Sidhant Kiran Desai,]
Age: Major, Occ: Driver,]
R/o. 173, R. K. Nagar, Kolhapur]

.... **Respondents**
(Original Opponents)

Mr. Avesh Ghadge i/b Mr. Akshay Kulkarni, Advocate for the Appellant.
Mr. Kisan M. Hosurkar, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th JULY, 2025.

JUDGMENT. :

1. This appeal is preferred by the Appellants – Claimants 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 Appellants – Claimants that the deceased was working as centreing machinery operator (skilled worker) with construction company and was earning Rs.13,000/- per month. Evidence was produced on record to prove the income of the deceased, but the Tribunal has considered notional monthly income of the deceased at Rs.6,000/- per month, which is on lower side. Learned counsel further submitted that the Tribunal has not awarded future prospects, it be awarded. Learned counsel further submitted that the Tribunal has awarded consortium amount on lower side, it be awarded. Learned counsel further submitted that the Tribunal has awarded interest rate at 7%, it should be at 9%. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent No.2 – Insurance Company that the Tribunal has considered notional monthly income of the deceased properly. Learned counsel further submitted that as deceased was not permanent employee. Hence, claimants are not entitled for the future prospects. The Tribunal has passed well-reasoned order, no interference is required in it, and requested to dismiss the appeal.

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

5. It is Claimants' case that as the deceased was working as centreing machinery operator (skilled worker) with R. K. Engineering and was earning Rs.13,000/- per month. To prove the income of the deceased, the claimants have examined PW2- Rahul Khot, employer of the deceased. He has stated that the deceased was working with his firm as a centering machinery operator (skilled worker), and he was getting Rs.13,000/- per month as salary. He has produced vouchers on record, which is at Exhibit-58 to 62. The Salary certificate is at Exhibit – 62. In his cross-examination, he admitted that no muster roll is produced on record to show that the deceased was working with their firm.

6. While dealing with the issue of income of the deceased, the Tribunal has observed that the deceased was doing labour work and no muster roll is produced on record by PW-2 to show that the deceased was working with their firm. On that grounds, the Tribunal has considered income of the deceased at Rs.6000/- per month. I am unable to understand the observations of the Tribunal. It has come on record that the deceased was skilled labour and he was doing centering machinery work with the firm of PW-2. There is no reason to disbelieve the evidence of PW-2. The deceased was maintaining family of three persons. Considering the evidence on record, I am considering monthly income of the deceased at Rs.13,000/- per month, as the salary certificate is produced on record proves the income of the deceased. The Tribunal has not awarded future prospect. At the time of accident the deceased, the deceased was 52 years old. As per view of the Hon’ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi 2017 ACJ 2700 (SC),*** the Claimants are entitled 30% for future prospects. The Tribunal has awarded rate of interest at 7%, I am considering it at 7.5% interest per annum. The Tribunal has awarded consortium amount on lower side. As per view of Hon’ble Apex Court in the case

of ***Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC),*** each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- funeral expenses and Rs.18,000/- for loss of estate.

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

Monthly income	Rs.13,000/-
Less 1/3rd deduction for personal expenses	Rs.4,333/-
Total	Rs.8,667/-
Annual income (Rs.8,667/- X 12)	Rs.1,04,004/-
Multiplier 11 (Rs.1,04,004/- X 11)	Rs.11,44,044/-
Add: 30% future prospects	Rs.3,43,213/-
Total	Rs.14,87,257/-
Consortium Rs.48,000/- X 2 (Claimants)	Rs.96,000/-
Loss of estate	Rs.18,000/-
Funeral Expenses	Rs.18,000/-
Total compensation	**Rs.16,19,257/-**
Loss awarded by the Tribunal	Rs.6,38,000/-
Enhanced amount	**Rs.9,81,257/-**

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

ORDER

i. The Appeal is allowed.

ii. The Claimants are entitled for enhanced amount of **Rs.9,81,257/-** @ 7.5% interest per annum from the date of filing claim petition till realization of the amount. Out of this amount, Rs.1,32,000/- is consortium amount, the Claimants are entitled interest @ 7.5% per anumm on this amount from 1st November, 2017, till realization of the amount.

iii. The Respondent No.2 – Insurance Company shall deposit the enhanced amount along with the accrued interest thereon, within six weeks after receipt of this order.

iv. The Claimants are permitted to withdraw the deposited amount along with the accrued interest thereon.

v. The Claimants shall pay the deficit Court fees on enhanced amount, if any, as per Rules.

vi. Record and Proceedings be sent back to the Tribunal.

9. All pending applications, if any, also stand disposed of.

(SHIVKUMAR DIGE, J.)