

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1307 OF 2025

ICICI Lombard General Insurance Co. } Appellant
Ltd. }

R/at Ground Floor, Second & Third, }
ICICI Lombard House, Veer Sawarkar }
Marg, Prabhadevi, Mumbai-400 025 }

V/s.

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2025.12.03
18:21:01 +0530

1. Monish Sanjay Patil }
Age-29 years, Occ: Student }

2. Ranjana Sanjay Patil }
Age-47 years, Occ: Household }

3. Mohit Sanjay Patil }
Age-31 years, Occ: Student }

4. Damini Sanjay Patil }
Age-28 years, Occ: Student }

5. Shevanti Krushna Patil }
Age-67 years, occ: Nil }

6. Krushna Budhaji Patil }
Age-84 years, OcC: Nil }

7. Sardar Baba Patel }
R/at Room No.15, Gulshan Islam }
Housing Society, Mahatama Phule Nagar, }
90 Feet Road, Sakinaka, }
Mumbai-400 072. }

.... Respondents

Mr.Pandit Kasar, for the Appellant.
Mr.Varun H. Thanawala, for the Respondents.

CORAM : R.M. JOSHI, J.

DATE : 1st DECEMBER 2025

ORAL JUDGMENT :-

. By consent of both sides heard finally at the stage of the admission.

2. The Appeal takes exception to the judgment and award dated 24th March 2025 passed in Motor Accident Claims Tribunal No.795 of 2018, whereby the Tribunal has directed payment of compensation Rs.28,00,000/- along with interest @ 7.5 per month.

3. The facts which led to the filing of this Appeal can be narrated as under:-

The Original Claimants filed claim seeking compensation in respect of death of the deceased who was riding Activa Motor Scooter bearing No.MH-04-JL-8082 on Thane-Nashik Highway. It is claimed that while he was crossing

Mankoli bridge through subway, one Tata Dumper bearing No.Mh-03-CP-5579 came in high speed and dashed to the scooter resulting into causing serious grievous injuries to the deceased who ultimately succumbed to the injuries. The Claimant claimed that, the deceased was working with Mahanagar Transport and earning Rs.28,000/- per month. The owner of the offending vehicle appeared before the Tribunal but failed to file written statement before the Trial Court. The Insurer filed Written Statement denying the contentions and Claims of the Claimant. Evidence was led by the Claimants. No evidence was led by the Insurer. The Tribunal allowed the Petition by granting compensation as recorded herein above.

4. The learned counsel for the Appellant, at the outset, submits that, the judgment and awarded passed by the Tribunal is unreasoned one and Tribunal has committed error in accepting the income of the deceased @ Rs.17,500/- without the income being proved by the Claimant.

5. The learned counsel for the Claimants supported the impugned award. It is his contention that in any case the

notional income also would not be less than Rs.10,000/- per month. It is further submitted that, the Claimants are also entitled to receive consortium in respect of Claimant Nos.2 to 6, in view of the judgment in case of *Magma General Insurance Co. Ltd. vs. Nanu Ram*¹,

6. At the outset, it needs to be stated that, though judgment in question is short, it records reason for allowing the claim. Now question arises as to whether there is any evidence led by the Claimant to prove the income of the deceased @ Rs.17,500/- per month and record indicates that there is no evidence led to that effect. In any case, the notional income of the deceased would have to be considered and the submission of learned counsel for the Claimant about the notional income at the relevant time at Rs.10,000/- per month is fair and reasonable, and therefore accepted.

7. There is no dispute about the age of the deceased so also multiplier is made applicable. Apart from this the Claimant Nos.2 to 6 are entitled to receive filial consortium in view of

1 2018 ACJ 2782 (SC)

Magam Insurance (Supra). The calculation of compensation is as under:

Income per month	Rs.10,000.00
Add : 25% future prospects (Rs.10,000 + Rs.2,500)	Rs.12,500.00
1/5 Deduction for Personal Expenses (Rs.12,500 – Rs.2,500)	Rs.10,000.00
Total Net Income (Rs.10,000/- x 12)	Rs.1,20,000.00
Multiplier (Rs.1,20,000 x 13)	Rs.15,60,000.00
Consortium	Add :- Rs.2,40,000.00
Loss of Estate	Rs.15,000.00
Funeral Expenses	Rs.15,000.00
Total	----- Rs.18,30,000.00 =====

8. In view of this, the Appeal deserves to be partly allowed.

9. In view of the above, the Appeal is partly allowed in the following terms.

ORDER

- (i) The impugned award is modified.
- (ii) The Claimants would be entitled to receive Rs.18,30,000/- jointly and severally from Original Opponent Nos.1 and 2, with interest @

7% per annum from the date of filing of the Claim

Petition till realization of amount.

10. All pending Applications are disposed of.

(R.M. JOSHI, J.)