IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO.611 OF 2010

1. Ramesh s/o Vitthalrao Kale,
   Aged 49 years.

2. Smt. Sangita w/o Ramesh Kale,
   Aged 39 years.
   Both r/o. Gawalipura, Surendragadh,
   Nagpur. .. Appellants

..Versus..

1. Arun s/o Shamrao Mohite,
   Aged Major, R/o. 338, Azamshah
   Layout, Ganesh Nagar, Nagpur.

2. The Divisional Manager,
   National Insurance Company Limited,
   Paul Complex, Ajni Square,
   Wardha Road, Nagpur. .. Respondents

…………….
Shri Asghar Hussain, Advocate for Appellants.
Shri D.N. Kukday, Advocate for Respondent No.2.
……………

CORAM : PRAVIN S. PATIL, J.
DATED : 14.11.2025.

JUDGMENT

Heard.

2. By way of the present appeal, the challenge is to the judgment and order passed by the Motor Accident Claims Tribunal, Nagpur in M.A.C.P. No.188/2005, decided on 30.06.2009. The appellants herein are the unfortunate parents of the deceased son, who has filed the claim petition seeking enhancement of the compensation. According to them, the meager compensation has been awarded by the learned Tribunal without considering the factual as well as legal position in the matter.

3. It is undisputed fact in the present matter that on 29.04.2004, deceased Shavi, who was 10 years old, was going to Jivtode Marriage Hall, Manewada Road from Tukdoji Statue with other persons for attending marriage. When he was in front of the Omkar Hardware, a truck bearing registration No. MH-31/7880 came in a high speed and gave dash to the deceased. In the said accident, the deceased Shavi had succumbed to the injuries.

4. According to the appellants, deceased Shavi was taking education in 5th Standard. According to them, he was a brilliant student and the best player in Cricket and Chess. Due to his

untimely death, the parents caused great loss, who were depending on him. Therefore, they claimed total compensation of Rs.3 Lakhs on all counts before the Tribunal.

5. The Respondent-Insurance Company has opposed the claim petition by stating that no evidence was brought on record to the extent that deceased was a bright student in the school and also playing the Cricket and Chess. Therefore, considering the fact that the child was only 10 years old and there is no certainty in the life of the child, he is not entitled the lump-sum compensation.

6. In the light of rival submission of the parties, following judgments of the Hon’ble Supreme Court of India will be relevant to consider the issue as to how the compensation is to be determined in the present case.

(1) Hitesh Nagjibhai Patel .vs. Bababhai Nagjibhai Rabari and another, reported in 2025 INSC 1070.

(2) M/s. Reliance General Insurance Company Limited .vs. H. Mallika Bee and others, reported in MANU/TN/6628/2020.

(3) Rajendra Singh and others .vs. National Insurance Company Limited and others, reported in (2020) 7 SCC 256.

7. As per the above said judgments of the Hon'ble Supreme Court of India, it is held that the Tribunal should assess the income of minor by considering the minimum wages prevailing in the State at the time of accident. It will be relevant to reproduce para 9 of the judgment of ***Hitesh Nagjibhai Patel*** (supra), as under :

> *9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in* ***Kajal v. Jagdish Chand and Ors. (2020) 4 SCC 413, and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr. 2024 SCC Online SC 3692."***

8. So also in the case of ***M/s. Reliance General Insurance Company Limited*** (supra), the Hon'ble Supreme Court has observed that in the case of death claim of minor, deduction towards personal expenses should not be made. It is observed in para 18 of the decision reads as under :

> *18. So far as minors are concerned, they are non earning members and there is no occasion for them to spend money towards the personal expenses and there cannot be any deduction towards their personal expenses. In Lata Wadhwa case (cited supra) and Kishan Gopal case (cited supra). The Hon'ble Supreme Court after fixing the notional monthly income of the minor applied the multiplier and taken the entire amount as the loss of dependency and no deduction was made for their personal expenses. In the above circumstances, this Court is of the view that there cannot be any deduction towards personal expenses from the notional income of deceased minors."*

9. In the case of ***Rajendra Singh and others*** (supra), it is opined by the Hon'ble Supreme Court of India that the compensation towards the future prospects in case of children is not required to be considered in cases of death claim of a minor in a road accident.

10. In the light of above said factual as well as legal position to determine the just and fair compensation, the schedule of the minimum wages prevailing during the period of accident i.e. in the financial year 2004-2005 will be applicable in the matter. In the year 2004-2005 minimum wages have been fixed for skilled, semi-skilled and unskilled labourers of different industries, ranging from Rs.2,730/- per month to Rs.3,330/- per month. Therefore, in my view, it would be appropriate to calculate the notional income at the rate of Rs.3,000/- per month.

11. It will be necessary to consider the view taken by the coordinate bench of this court in ***First Appeal No.866/2022, dated 26.09.2025 (Anil s/o Laxmanrao Dhodre and others .vs. Vithal s/o Narayan Pastulwar and others),*** while determining the compensation in a death claim of a minor child. The coordinate bench has extensively considered the entire judgment of the Hon'ble Supreme Court of India and thereby assessed the compensation by considering the factors like multiplier, loss of dependency, loss of consortium, loss of estate and funeral expenses. The view expressed by coordinate Bench

of this court, according to me, based upon recent judgments of the Hon'ble Supreme Court of India. I do concur the finding recorded by coordinate Bench in the matter. According to me, the appellants are entitled to the compensation as under :

Sr.No.	Particulars	Amount
1	Monthly Income determined is @ Rs.3,000/-	
2	Yearly Income (Rs.3,000/- PM x 12 months)	Rs.36,000/-
3	Multiplier applicable (15)	
4	Loss of dependency (Rs.36,000 x 15)	Rs.5,40,000/-
5	Towards Loss of Consortium @ Rs.40,000/- each to the appellants (Rs. 40,000 x 2)	Rs.80,000/-
6	Towards Loss of Estate	Rs.10,000/-
7	Funeral Expenses	Rs.10,000/-
8	Total amount of Compensation	**Rs.6,76,000/-**
9	(Less) Compensation granted by the Tribunal	Rs.70,000/-
10	Enhanced Compensation the appellants entitled to get	**Rs.6,06,000/-**

12. Therefore, the present appeal succeeds in terms of above compensation amount. Hence, I proceed to pass the following order :

O R D E R

(1) The appeal is accordingly allowed.

(2) The judgment and award passed by the claim Tribunal dated 30.06.2009 in M.A.C.P. No.188/2005 is modified to the extent that the compensation to the appellants is enhanced from Rs.70,000/- to Rs. 6,76,000/-. As such, the appellants shall be entitled for enhanced compensation of Rs.6,76,000/- (-) Rs.70,000/- it comes to **Rs.6,06,000/-** along with interest at the rate of 7.5% per annum on the enhanced compensation.

(3) The rest of the judgment is hereby confirmed.

(4) The respondent-insurance company is directed to deposit the enhanced compensation amount with the Registry of this court within a period of four months. After the deposit of the amount, the appellants will be entitled to withdraw the same, subject to satisfaction of the Registrar (Judicial).

(Pravin S. Patil, J.)

Gulande