IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.88 OF 2024
ALONGWITH
CROSS OBJECTION [STAMP] NO.7528 OF 2022
IN
FIRST APPEAL NO.88 OF 2024

United India Insurance Co. Ltd. Pune Regional Office, Through, Its Kolhapur Divisional office 2, "Matoshri Plaza, office No.301, 3rd Floor, Venus Corner, Shahupuri, Kolhapur	]]]]]]]	… Appellant / Insu. Co.
Versus		
1. Mr. Ishwara Shankar Kamble Age: 48, Occ: Service, 2. Mrs. Shantabai Ishwara Kamble Age: - 40 Occ: Household, Both R/O:- Ninai Parale, Tal:- Shahuwadi, Dist: Kolhapur.	]]]]]]	...Respondents / Cross Objectionists /Claimants
3. Mr. Santosh Ananda Patil Age:- 30, Occ:- Nil, R/o:- Perid, Tal:- Shahuwadi, Dist:- Kolhapur.	]]]]	Respondent / Owner
4. Mr. Ravindra Balkrushna Sapate Age:- 30, Occ:- Driver, R/o. Burud Galli, Malkapur, Tal:- Shahuwadi, Dist. Kolhapur	]]]]	Respondent/ Driver

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Mr. Amol Gatne (through V.C.), for the Appellant.

Mr. Pradeep D. Dalvi, for Respondent Nos.1 and 2.

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CORAM : M. M. SATHAYE, J.
DATE : 24th MARCH, 2026.

JUDGMENT:

1. Heard Learned Counsel for the Appellant and learned Counsel for Respondent Nos.1 and 2.

2. Admit. Learned Counsel for contesting Respondent Nos.1 and 2 (Claimants) waives service. Considering narrow conspectus of the subject-matter dispute, taken up for final disposal immediately.

3. The Appellant is Insurance Company and Respondent Nos.1 and 2 are original claimants in Motor Accident Claim Petition (MACP) No.156 of 2015 filed in the Motor Accident Claims Tribunal at Kolhapur ('MACT' for short). Respondent No.3 is owner of the offending vehicle (Tata Truck/Dumper, MH-09 / CU-2727) and Respondent No.4 is Driver of the said vehicle. Admittedly, the offending vehicle was insured with the Appellant Insurance Company.

4. Deceased Abhijit was riding pillion with his friend Mr. Tanaji More on Motorcycle (MH-09 / DB-8165) on 07.01.2015, at about 6.45 a.m., when the Motorcycle reached at Village Yelur near Jatharwadi, offending vehicle came from the opposite side and dashed motorcycle, in which, deceased Abhijit fell down on the road and sustained fatal head injury. Deceased was shifted to the Primary Health Centre, Malkapur and then to a private Hospital, who ultimately succumbed to accidental injuries.

5. Respondent Nos.1 and 2, who are parents of the deceased, filed claim application under section 166 of the Motor Vehicle Act, 1988 ('MV Act' for

short) contending that accident has taken place due to rash and negligent driving by offending vehicle. That the Police registered criminal case against Respondent No.4 - Driver of the offending vehicle. That at the time of death, deceased Abhijit was healthy young boy of 19 years who was college going student. That deceased Abhijit was having ambition to become Engineer. Respondent Nos.1 and 2 claimed compensation of Rs.15,00,000/- with interest.

6. The owner and Driver of the offending vehicle filed written statement denying the case of rash and negligent driving. They *inter alia* contended that when Respondent No.4 was driving the offending vehicle at a moderate speed from the correct side of the road, the Motorcycle suddenly came in high speed and its driver could not control on a turn and slipped and dashed the offending vehicle. That because of fault of motorcycle driver, accident has taken place.

7. The Appellant-Insurance Company filed written statement contending inter alia that Driver of offending vehicle was not rash and negligent. That Driver of Motorcycle Mr. Tanaji More was driving in rash and negligent manner without holding effective licence of Bajaj Pulsur Motorcycle at high speed who could not control the vehicle and as such Motorcycle slipped on road and the accident took place. Injuries as well as monetary claim was denied.

8. Respondent No.1, father of deceased examined himself in support of claim. The Insurance Company examined Driver of offending vehicle Mr. Ravindra Sapate and also examined Driver of the Motorcycle Mr. Tanaji More.

9. Learned Member, MACT, Kolhapur by impugned judgment and Award dated 22.08.2017, allowed the Petition partly, thereby directing the Appellant-Insurance Company jointly and severally with owner and driver of the offending vehicle, to pay Rs.14,71,000/- inclusive of No Fault Liability with interest @ 7% per annum from the date of Claim Petition till realization.

SUBMISSIONS

10. Learned counsel Mr. Gatne appearing for the Insurance Company submitted that the deceased was 19 year old, 12th standard commerce student and, therefore, the notional income of Rs.12,000/- accepted by the Tribunal is on higher side. He submitted that 100% future prospects cannot be applied and at the most, 40% future prospects can be applied. He submitted that instead of Rs.1,00,000/- granted by the Tribunal towards loss of love, care and affection and 50,000/- towards loss of estate and Rs. 25,000/- towards funeral expenses, at the most Rs.40,000/- towards loss of consortium for both parents alongwith other heads can be awarded following law laid down in **National Insurance Company Limited Versus Pranay Sethi and Ors. [(2017) 16 SCC 680] and Magma General Insurance Co. Ltd. Vs. Nanu Ram [2018 (8) SCJ 338].**

11. Inviting attention of the Court to cross-examination of the Motorcycle Driver, it is submitted that the said driver has stated in examination-in-chief that the accident did not take place due to fault of truck Driver. Inviting attention to the evidence of Driver of the offending vehicle, he submitted that the said driver has also stated that Motorcycle slipped first and then dashed against the offending vehicle. It is submitted that therefore, this is a clear case of negligence of only Motorcycle driver and not that of the offending vehicle. He submitted that if the fault lies only with the driver of the

Motorcycle then, for that, liability cannot be fastened upon the insured vehicle and its Insurance Company (Appellant). He relied on the following judgments in support of his case about income of a student :

(i) **Arvind Kumar Mishra Versus New India Assurance Company Limited and Another [(2010) 10 SCC 254]**

(ii) **Radhakrishna and Another Versus Gokul and Others [(2013) 16 SCC 585]**

(iii) **Kurvan Ansari Alias Kurvan Ali and Another Versus Shyam Kishore Murmu and Another [(2022) 1 SCC 317]**

(iv) **Reliance General Insurance Company Ltd. Versus Sushil @ Sachin and Others [Civil Appeal No. 3495 of 2025 Supreme Court Order dated 11.08.2025]**

12. On the other hand, Mr. Dalvi, learned counsel for Respondent Nos.1 and 2 - claimants submitted that Respondent Nos.1and 2 have filed Cross Objection seeking enhancement of the amount. He submitted that notional income needs to be increased to Rs. 12,000/- per month. He submitted that the Tribunal has wrongly applied multiplier of 18 and it should have been 19 as per paragraph 19 of **Smt. Sarla Verma and Ors. Vs. Delhi Transport Corporation and Another**, **[2009 (6) SCC 121]**. He submitted that future prospects of 40% must be applied. He submitted that therefore accepting his contentions as above, total amount of compensation comes to Rs.24,62,400/- and therefore, considering amount already granted, enhancement amount should be Rs.11,66,000/-. He further submits that additional Rs.95,000/- must be added for loss of estate and loss of consortium as per **Pranay Sethi (supra)** read with **Magma GIC (supra)** and therefore, total amount enhancement must be Rs.12,61,400/-. He also relied on the following judgments in support of his case;

[i] **National Insurance Company Limited Versus Pranay Sethi and Ors. (supra)**

[ii] **Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others (supra)**

[iii] **Parminder Singh Versus Honey Goyal and Ors, [AIR Online 2025 SC 168];**

[iv] **Joginder Singh & Anr. Versus ICICI Lombard General Insurance Company, [2019 ACJ 2783]**

13. Mr. Gatne in rejoinder made submissions distinguishing the cases of **Joginder Singh (supra)** and **Parminder Singh (supra)** on facts.

14. I have carefully considered the submissions and perused the record.

15. First, let us consider the argument about contributory negligence.

16. It is true that the Insurance Company has examined drivers of both, the offending vehicle (Truck/Dumper) as well as the motorcycle. The driver of the motorcycle, Mr. Tanaji Vishnu More, though has stated in his examination-in-chief that the accident did not take place due to the fault of the truck driver, he has admitted in cross-examination that the motorcycle was on an ascending road and was traveling at a speed of 30 to 40 km per hour. He further admitted that the offending truck, which was coming from a descending road, was at a high speed and that the accident occurred due to the fault of the offending truck/dumper.

17. Oral evidence of the offending truck driver, Ravindra Balkrushna Sapate, shows that he has admitted in his cross-examination that he was

holding a valid driving license and that the fitness and permit of the offending vehicle/dumper were valid at the time of the accident. He has also admitted that the accident took place on a turning road. Though he has stated that the motorcycle skidded and then dashed into the dumper, he has also admitted that the police registered a case against him for rash and negligent driving, and that the FIR has not been challenged on the ground of being a false complaint. He has further admitted that, although he gave intimation to the police, he did not state that the motorcycle had first skidded and then dashed into the dumper. He has also admitted that while taking a right turn, a vehicle must first be moved to the left side and then turned to the right, and that if this is not done, a vehicle coming from the opposite direction may collide with the wheel of the dumper. He has further admitted that the offending vehicle was on a descending road while the motorcycle was coming from an ascending road.

18. In the teeth of above admissions, a solitary statement in the examination-in-chief that the accident did not take place due to the fault of the truck-driver cannot be given such weight as to hold contributory negligence on the part of the motorcycle driver. Overall reading of the aforesaid oral evidence, in my view, does not establish that the accident took place due to the fault of the motorcycle driver, as argued by the learned counsel for the Insurance Company.

19. So far as the arguments of both the sides regarding income of deceased is concerned, it is necessary to note that in **Arvind Kumar Mishra (supra)** relied on by Insurance Company, deceased was 25 years old and annual income was taken at 60,000/- per annum which makes monthly income Rs.5,000/- per month. In **Kurvan Ansari (supra)**, deceased was 7 years old

and annual income is held as Rs. 25,000/-. In **Reliance General Insurance Company Vs. Sushil @ Sachin (supra)**, injured was 17 years old student who suffered amputation of right leg, and monthly income of minimum wage at Rs. 5,860/- has been accepted by High Court and confirmed by Supreme Court.

20. In **Joginder Singh** (supra) facts were peculiar, that the deceased in that case, was 20 years old girl taking actual training for becoming an air-hostess and therefore, since the deceased was in the course of becoming an air-hostess, income of Rs.15,000/- per month was accepted. In the present case, there is no such specific evidence available about a particular course that the deceased had undertaken.

21. In **Parminder Singh** (supra) relied on by the Claimants, it was a case of injury of quadriplegia which resulted into 100% permanent disability. In that case, victim/claimant was learning to become veterinary doctor and was a sportsman having technical qualification. In these circumstances, monthly income of Rs. 7,500/- has been accepted.

22. In the present case, there is no such evidence available about any particular course being undertaken by deceased Abhijit. Therefore both these case-law will not advance case of the claimant. In the present case, deceased Abhijit was 19 years old 12th standard student. There is no documentary evidence of income. There is no evidence to accept monthly income of Rs.12,000/-. Therefore accepting the highest amount of Rs. 5,860/- per month from the judgments relied upon by the Insurance company it can be safely rounded off to Rs. 6,000/- per month.

23. In the present case, applying law laid down in **Insurance Company Vs. Pranay Sethi (supra)**, since deceased was less than 40 years of age and there is no evidence about job, much less permanent job or business, maximum 40% future prospects can be applied. 100% future prospects as applied by the Tribunal cannot be sustained.

24. Also considering paragraph 42 (SCC version) of **Sarla Verma (supra)**, for the age group of 15 to 20, multiplier of 18 as applied by the Tribunal is correct and it cannot be considered as 19 as argued by learned counsel for the claimant. Applying the law laid down in **Pranay Sethi (supra) and Magma GIC Vs. Nanu Ram (supra)**, other heads such as loss of estate, loss of consortium etc. must be awarded. Since the claimants are parents, both are entitled to compensation under loss of consortium.

25. Considering that the impugned award is of August 2017, interest granted by the Tribunal @ 7% p.a. is on lower side and interest @ 9% p.a. will be just and proper. It is increased accordingly.

26. In a latest judgment of **Hasina Yasmin Vs. National Insurance Co. (Sp. Leave Petition (C) No. 27285 of 2025 Order dated 17.12.2025)**, in paragraph Nos. 6 to 8, the Hon'ble Supreme Court has referred to a Larger Bench, the issue about relevance of date of accident, date of award and its effect on periodical increase of 10% every three years, as ordered under **Pranay Sethi (supra).**

27. Considering that accident has taken place in January, 2015 prior to October 2017 when figures are fixed in **Pranay Sethi (supra)** and further considering that interest is going to be awarded from date of application, in

my considered view, 10% increase every three year after 2017 can not be applied in the facts of the present case. However, figures fixed in **Pranay Sethi (supra)** of October 2017 are applicable.

28. Hence, Appeal of Insurance company is partly allowed and Cross Objections are rejected by granting compensation of Rs.10,17,200/- by adopting following calculation. Said amount shall be payable to Respondent Nos. 1 & 2 (Claimants) with interest @ 9% p.a. from the date of Claim Petition till realization.

Monthly Income =	Rs.6,000/-
Annual Income (x12) =	Rs.72,000/-
Multiplier (x18) =	Rs. 12,96,000/-
Add: 40% future prospects =	Rs. 12,96,000/- + Rs. 5,18,400/- = Rs.18,14,400/-
Less 1/2 deduction for personal expenses =	Rs.9,07,200/-
Total income =	(A) Rs. 9,07,200/-
Funeral Expenses =	(B) Rs.15,000/-
Loss of Estate =	(C) Rs.15,000/-
Consortium for parents (x2)	Rs.40,000 x 2 = (D) Rs.80,000/-
Total compensation held payable =	**Rs.10,17,200/- (A+B+C+D)**
Awarded by Tribunal =	Rs.14,71,000/-
Reduced amount =	Rs.4,53,800/-

29. The Statutory Deposit of Rs. 25,000/- in this Court (Registry) is directed to be transferred to concerned Tribunal, alongwith accrued interest, if any. The concerned Tribunal is directed to refund remaining amount to Appellant Insurance Company, after adjusting above amount with interest payable to Respondent Nos. 1 and 2 (Claimants).

30. All concerned to act on duly authenticated or digitally signed copy of this order.

[M. M. SATHAYE, J.]