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

**FIRST APPEAL NO. 69 OF 2024**

Kavita W/o Anil Talwar … Appellant

***Versus***

Akash S/o Rama Kamble And Ors. … Respondents

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Ms. Bhargavi Patil a/w Adv. Neev Patil, Adv. S. S. Saptsagar for the Appellant (widow).
Mr. Aditya Ghadge a/w Mr. Sarthak Diwan for Respondent No. 3-Insurance Company.
Mr. Omkar C. Korutkar i/by Mr. Balwant Salunkhe for the Respondent No. 4 (mother).

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**CORAM : M. M. SATHAYE, J.**
**DATE : 2nd April, 2026.**

**P. C. :**

1. The Appeal is already admitted. Considering the narrow controversy involved, taken up for final disposal by consent of learned counsel for parties.

2. The Appeal is filed challenging the impugned Judgment and Award dated 26.04.2022 passed in Motor Accident Claim Petition (MACP) No. 509 of 2019 by the Member, Motor Accident Claims Tribunal (MACT), Kolhapur. By the said judgment, the claim petition was partly allowed, holding the owner, driver, and Insurance Company of the offending vehicle jointly and severally liable to pay an amount of Rs. 51,73,112/- (including no-fault liability) with interest @ 6% p.a. from the date of application till realization. The impugned order apportions the compensation amount as 75% payable to the Applicant–Widow and 25% to Respondent No. 4 - mother of the deceased.

3. Few facts necessary for disposal of this Appeal are as under:

3.1. The Applicant is the widow of the deceased, Anil Anand Talwar, and Respondent No. 4 is the mother of the deceased. The claim is filed under Section 166 of the Motor Vehicles Act, 1988 ("MV Act" for short).

3.2. The Appellant filed the claim application contending, inter alia, that the deceased was working as a teacher in an Ashram School. On 14.07.2018, he was riding his motorcycle from Kolhapur to Koshire when, near the spot of the accident, the offending vehicle (Honda Shine Motorcycle No. KA-23-ES-7326) came from behind and while overtaking, dashed the deceased's motorcycle in a rash and negligent manner. As a result of the accident, the deceased fell down and sustained head injury and succumbed to death on the way to the hospital. The deceased was 40 years of age on the date of the accident and was drawing a salary of Rs. 54,230/- per month. He had received the benefits of the 7$^{th}$ Pay Commission, and the revised pay fixation had taken place prior to the accident.

3.3. Respondent Nos. 1 and 2 (Owner and Driver of the offending vehicle) appeared and filed their written statement contesting the claim.

3.4. Respondent No. 3 – Insurance Company filed its written statement, contending, *inter alia*, that the deceased had contributed to the accident and that an exorbitant amount is claimed as compensation, and that this was a case of a hit-and-run accident. The Respondent No. 3 raised various other defences, however they are not material for the purpose of deciding this appeal by Claimant. The Insurance Company has not challenged the impugned Award.

3.5. Respondent No. 4 (mother of the deceased) appeared but did not file any written statement.

3.6. The learned Tribunal, upon appreciation of the evidence, held that the death as well as the involvement of the offending vehicle was proved.

The Tribunal further held that the accident occurred due to rash and negligent driving by the rider of the offending vehicle. The Tribunal assessed the monthly income of the deceased at Rs. 35,000/- per month, deducted 1/ $3^{rd}$ towards personal expenses, added future prospects of 30%, applied multiplier of 14 and calculated the compensation.

4. Learned Counsel for the Appellant submitted that the multiplier is wrongly applied as 14 and it should have been 15 considering that the deceased was 40 years and 7 months and 25 days old on the date of accident and the completed age should be considered for applying necessary bracket as per the Judgment of **Sarla Verma (Smt) and others vs. Delhi Transport Corporation and another (2009) 6 SCC 121**. She relied judgment of **New India Assurance Co. Ltd. vs. Alpa Rajesh Shah and others 2013 SCC OnLine Bom 1661,** in support of this submission. She also submitted that as far as monthly income is concerned, when documentary evidence of the last payable salary was available on record, the Tribunal was not justified in applying average income based on income tax records (ITR). She further submitted that future prospects ought to be applied at 50%, considering the age of the deceased. For this submission, she relied upon **Sarla Verma (supra)** for age bracket of 35–40 years. She further submitted that the interest awarded @ 6% p.a. is on the lower side and should be increased to at least 9%. Lastly, she submitted that Respondent No. 4 (mother) has not filed any appeal and it is only the Appellant who is seeking enhancement; therefore, if enhancement is to be granted, it should be granted exclusively to the Appellant, and no share therein should be given to Respondent No. 4, who is stated to be a pensioner. She relied upon **Abati Bezbaruah Vs. Dy. Director General, Geological Survey of India and another (2003) 3 SCC 148, Savita Devi and others Vs. SBI Gen. Insu. Co. Ltd. And others (Civil Appeal No.**

**10053-10054 of 2024), Malarvizhi & Ors. Vs. United India Insu. Co. Ltd. (2020) 4 SCC 228 and Branch Manager, United India Insu. Co. Ltd. Vs. Indra Chettri & Ors. 2023 SCC OnLine Sikk 104** on the point of enhanced interest.

5. Learned Counsel for Respondent No. 4 (mother of the deceased) submitted that he has no objection to the submissions made by the Appellant, including the submission regarding granting enhancement exclusively to the Appellant.

6. On the other hand, learned Counsel for Respondent No. 3 – Insurance Company supported the impugned order, contending inter alia, that ITR are statutory documents and should be taken as basis. He relied on **Vijayalaxmi and another vs. National Insurance Co. Ltd. and others 2025 ACJ 335** and **United India Insurance Co. Ltd. vs. Indiro Devi and others 2018 ACJ 2051** in support of this submission. He further submitted that since the deceased had crossed the age of 40 on the date of the accident, the next bracket should be applied and therefore multiplier of 14 applied by the Tribunal is correct. He also contended that future prospects cannot be applied at 50% since it applies to the age bracket of 35–40 years and the deceased had already crossed that bracket. He further submitted that there is no ground for increasing the interest awarded by the Tribunal, which is just and proper. He lastly submitted that amounts under other heads should not be interfered with.

7. I have carefully considered the submission and perused the record.

8. The facts of the present case are peculiar in as much as, the deceased was a teacher in a school, and the school record produced on record clearly

indicates that the pay fixation had already taken place, fixing his last payable gross salary at Rs. 55,100/-. The Claimant's witness, Mr. Dadasaheb Baburao Patil (PW-2), who is the in-charge Headmaster of the school, entered the witness box and proved that the last payable salary of the deceased was Rs. 55,100/- per month. It is not disputed that this last payable income is higher than the income reflected in ITR produced on record. In **United India Vs. Indiro Devi (supra)**, the Hon'ble Supreme Court considered a case where the ITR indicated a higher amount than the salary certificate and in that context held that it is possible that the deceased had income from other sources; therefore, the salary certificate need not be the sole basis for assessing income, and the tax return cannot be ignored. In the present case, the situation is reverse and the duly proved salary income is higher than that amount reflected in ITR. In such circumstances, considering that the provisions involved are part of beneficial legislation, the higher amount should be taken as basis.

9. Once the last payable salary of the deceased was available, the Tribunal was not justified in taking the average of the income reflected from ITR. Perusal of Exhibit-63 indicates that after deducting tax, the net income was Rs. 49,942/- when the gross salary was Rs. 52,142/-; therefore, considering that the last payable salary was Rs. 55,100/-, the net income can safely be calculated by applying proportionate reduction. It comes to Rs. 52,775/-. Therefore, I hold that monthly salary income of deceased at the time of accident was Rs. 52,775/- (net).

10. So far as the aspect of multiplier is concerned, in almost identical factual situation, in the case of **New India Vs. Alpa R. Shah (supra)** the Division Bench of this Court, relying on **National Insurance Company Limited**

**vs. Vaishali Harish Devare 2013 (1) Mh.L.J. 411,** has considered 'the completed age' of deceased at the time of death. Co-incidentally in the said judgment also, the completed age was 40 year as in the present case. The Division Bench of this Court relying on completed age, has applied multiplier of 15. Therefore I have no hesitation in holding that, in the present case, since the deceased had completed the age of 40 and not 41, the multiplier of 15 ought to have applied, as per paragraph No. 42 (M-15 for 36 to 40 years) of judgment of **Sarla Verma (supra).**

11. As regards future prospects, in later judgment of the Hon'ble Supreme Court in **National Insurance Company Limited vs. Pranay Sethi (2017) 16 SCC 680** paragraph 59.3, it is clarified that 50% future prospects is applicable where the deceased was below the age of 40 years. In the present case the deceased had crossed the age 40 years and therefore I am inclined to confirm 30% future prospects applied by the Tribunal for age bracket of 40 to 50 years.

12. So far as the judgment in **Vijayalaxmi and another (supra)**, there is no dispute that ITR are statutory documents, however, considering the peculiar facts discussed above, the said judgment does not advance the case of the Insurance Company.

13. Considering the judgments relied upon by the Appellant about interest and further considering that in all the said judgments interest @9% p.a. or more has been granted, and further considering that accident is of the year 2018, I am inclined to increase the interest to 9% p.a.

14. In the net result, the Appeal deserves to be partly allowed.

15. **Accordingly the appeal is partly allowed.** The Appellant is held entitled to enhanced amount of **Rs. 83,64,900/-** from the Respondent–Insurance Company, with interest @9% p.a. from date of application till realization. The amount is calculated as below:

| | |
|---|---|
| Monthly Net Income = | Rs. 52,775/- |
| Annual Income (x12)= | Rs. 6,33,300/- |
| Multiplier (x15 ) = | Rs. 94,99,500/- |
| Add Future prospects (30%) = | Rs. 94,99,500/- + 28,49,850/- = Rs. 1,23,49,350/- |
| 1/3rd for deduction = | Rs. 41,16,450/- |
| Total loss of income | Rs. 1,23,49,350/- (-) 41,16,450/- = (A) Rs. 82,32,900/- |
| Funeral Expenses = | (B) Rs. 18,000/- |
| Loss of Estate = | (C) Rs. 18,000/- |
| Loss of Consortium for wife and mother | Rs. 48,000 x 2 = (D) Rs. 96,000/- |
| **Total compensation =** | **(A+B+C+D) Rs. 83,64,900/-** |
| Amount granted by Tribunal = | Rs. 51,73,112/- |
| Enhancement granted = | **= Rs. 31,91,788/-** |

16. Considering no objection given on behalf of Respondent No. 4 (mother) it is clarified that benefit of enhancement is payable to the Appellant only.

17. At this stage, learned Counsel for Respondent No. 4 (Mother of deceased) makes a request that she may be permitted to withdraw the amount of 25% as per impugned Judgment and Award with interest. The said request is not opposed by any other party. Accordingly Respondent No. 4 is permitted to withdraw 25% amount of Rs. 51,73,112/- with accrued interest thereon.

18. Rest of the amount is payable to Appellant, with interest.

19. Statutory deposit and/or any other deposit lying this Court (Registry) be transferred to concerned Tribunal with accrued interest, if any.

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

**[ M. M. SATHAYE, J. ]**

TALLE SHUBHAM ASHOKRAO

Digitally signed by TALLE SHUBHAM ASHOKRAO
Date: 2026.04.06 17:21:14 +0530