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

FIRST APPEAL NO. 279 OF 2025

1. Shri. Sanjay Laxman Kakade
Age: 68 Years, Occ: Nil,
2. Smt. Jyoti Sanjay Kakade
Age: 58 Years, Occ: Household,
3. Vaishnavi Sanjay Kakade
Age: 24 Years, Occ: Education,
4. Lokesh Sanjay Kakade
Age-23 Years, Occup- Education
5. Madhavi Sanjay Kakade
Age- 22 Years, Occup- Education
R/o- 157, Mangalwar Peth, Phaltan
Tal- Phalatan, District: Satara

...Appellants
(Original Applicants)

Versus

1. Shri. Ajinath Shankar Tele
Age- Adult, Occup- Business
R/o.-Palve Wasti, 50 Phata, Mandve,
Tal.- Malshiras, Dist.- Solapur 413111
2. Divisional Manager,
Sriram General Insurance Co. Ltd.
S. No. 19B/20B, PN59, 60, 81, 82,
Adishakti Arcade, Godoli, Satara.

...Respondents
(Original Opponents)

Mr.Santosh Bhosale a/w Amol S. Deshinge for the Appellants
Mr. Avesh Ghadge h/f Shalini Shankar for Respondent No. 2-Insurance
Company.
Mr. Ruturaj U. Kadam i/b Shankar Katkar for Respondent No. 1.

CORAM : M. M. SATHAYE, J.

DATE : 10th APRIL, 2026.

ORAL JUDGMENT :

1. Admit. Learned counsel for the Respondents waive service. Considering the narrow controversy involved, the Appeal is taken up for final disposal by consent of learned counsel for the parties.

2. The Appeal is filed by the Claimants challenging the impugned judgment and award dated 02.09.2024 passed in Motor Accident Claim Petition (MACP) No. 15/2024 by Motor Accident Claims Tribunal (MACT), Phaltan, Dist. Satara. By the impugned judgment and award, both the Respondents (Owner and Insurance Company) are held jointly and severally liable to pay Rs.13,28,300/- with interest @ 9% p.a. from the date of claim application till realization.

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

3.1. The Appellants are parents and siblings of deceased Parvani Sanjay Kakade. Claim is filed under Section 166 of the Motor Vehicle Act, 1988 ('M.V. Act' for short). The Appellants filed the said application contending *inter alia* that on 01.01.2021 at around 2.30 pm, the deceased was traveling on her two wheeler from Phaltan to Pandharpur when the offending vehicle tractor (MH-45-S-3372) came from behind in rash and negligent manner and dashed the two wheeler. In the said accident, the deceased died on the spot. They contended that deceased was a bright student studying in second year M.A. and was a UPSC aspirant. They further contended that apart from excellent academics, deceased was also an all-rounder being an NSS Cadet, holding special knowledge about sanskrit language who has passed related examination. That she had also completed basic computer typing course and was studying in SP College, Pune. The Appellants made a claim of Rs.78,00,000/- as compensation contending that she would have earned at least Rs.50,000/- per month.

3.2. The Respondents including the Insurance Company filed written statement raising various defences. Considering the limited scope of argument, it is not necessary to elaborate on the defences raised. Suffice it to note that the Insurance Company contended that the claim made is exorbitant.

3.3. The learned Tribunal on appreciation of evidence arrived at the figure of Rs.25,000/- per month as income of the deceased, applied deduction of 50% towards personal expenses and applied multiplier of 5 along with future prospects of 40%. Accordingly the compensation figure is arrived at, as indicated above.

4. Learned counsel for the Appellants/Claimants submitted as under.

4.1. That the multiplier applied by the Tribunal is *ex-facie* incorrect and multiplier of 18 is applicable.

4.2. That 50% deduction is not appropriate because though the deceased was unmarried, the family size of the Appellants/Claimants is large including parents and three siblings and therefore, 1/3 deduction ought to have been applied. He relied upon the judgments of Hon'ble Supreme Court in the case of **Ashvinbhai Jayntilal Modi vs. Ramkaran Ramchandra Sharma And Anr.** - LAWS(SC)-2014-9-96 and **Oriental Insurance Co. Ltd vs. Deo Patodi, Devendra Arora** - LAWS(SC)-2009-5-35 in support of his submission about the deduction.

4.3. That non-earning deceased is an alien concept to the motor accident claim. That actual contribution in family expenses has no role to play so far as deduction on notional income is concerned. He further submitted that the Insurance Company is trying to carve out a separate class of Claimants by connecting the applicable deduction to the aspect of dependency. That such creation of class which is not as per settled position

of law, is discriminatory and therefore it is fit case to interfere in the applicable deduction.

4.4. Relying on the cause title of the claim application he submitted that the father of the deceased is shown to be doing nothing and rest of the family i.e. mother and children are shown to be involved in household and education. He therefore submits that the income, even notional, must be deducted to the extent of 1/3 only.

5. On the other hand, learned counsel for the Respondent No. 2/Insurance Company submitted that the evidence on record indicates that the deceased was an aspirant of UPSC and had taken education apart from the fact that other siblings in the family are also taking education. He submitted that there is no evidence to suggest that the deceased was contributing anything to the family and in fact material on record indicates that she herself must be dependent on the income from parents. Relying on **United India Insurance Co. Ltd. vs. Satinder Kaur @ Satwinder Kaur & Ors., [Civil Appeal No.2705 of 2020 Judgment dated 30.06.2020]**, it is contended that in case of a bachelor/unmarried deceased, where a large and dependent family is shown to have been existing, such as widow mother and large number of non-earning siblings, only in such case, 1/3 deduction can be applied. However, normal rule is deduction of 50%, which is rightly applied.

6. Learned counsel for Respondent No. 1 has not made any submissions.

7. I have considered the rival submissions of the parties. Perused the record. At the outset, it is necessary to note that apart from the aspect of multiplier and deduction, no other arguments are advanced.

8. Perusal of the impugned judgment indicates that the Tribunal has considered the age of the Appellant No. 1 i.e. 65 years (age of parents)

and multiplier of 5 is applied. Considering the settled position of law as on today under paragraph 59.7 of **National Insurance Company Limited Vs. Pranay Sethi (2017) 16 SCC 680**, age of the deceased will have to be taken as a basis for applying multiplier. Hence, considering that the deceased was 23 years old at the time of accident, proper multiplier is 18 as per paragraph 42 of **Sarla Verma Vs. Delhi Transport Corporation (2009) 6 SCC 121** and the same must be applied.

9. Now let us consider the contentious issue involved in the present Appeal. Accordingly to the Appellants/Claimants, the size of the family is the only applicable criteria for applying 1/3 deduction in the facts of the case. According to the learned counsel for the Appellants, since the Claimants have stated in the cause title that they are not employed or house wife or students, it must be held that they were completely dependent. It is not disputed that the deceased was unmarried at the time of accident. In a recent judgment of **United India Vs. Satinder Kaur (supra)**, the Hon'ble Supreme Court has observed that if the deceased was unmarried and claim was filed by parents, then deduction would normally be 50% towards personal and living expenses. It is however, further clarified that subject to the evidence to the contrary, the father was likely to have his own income and would not be considered as dependent. Hence, the mother alone will be considered to be dependent. It is further clarified that in the absence of any evidence to the contrary, even the brothers and sisters of the deceased unmarried person would not be considered as dependents because they would usually either be independent and earning, or married or dependent on the father. It is further clarified that in case where the family of the bachelor was large and dependent on the "income of the deceased" as in a case where deceased had a widowed mother and large number of younger non-earning brothers and sisters, then deduction can be restricted to 1/3.

10. Learned counsel for the Appellant/Claimants has argued that deviation is necessary in the present case, considering the family size and 1/3 deduction must be applied. He has relied on above two judgments in support of his case.

11. In **Ashvinbhai Jayntilal Modi (supra)**, the Hon'ble Supreme Court was considering a case of death of 19 year old unmarried student pursuing medical degree. The Hon'ble Supreme Court relying on the judgment of **Oriental Insurance Co. Vs. Deo Patodi (supra)** accepted the deduction of 1/3 towards personal expenses. Perusal of **Oriental Insurance Co. Vs. Deo Patodi (supra)** shows that in the said judgment, the Hon'ble Supreme Court was considering death of 22 years old unmarried son of the Claimants and there was evidence in the form of offer of employment from a Company registered in USA for annual remuneration of Rs.18,00,000/- p.a. In that context, the Hon'ble Supreme Court, exercising its exclusive jurisdiction, has applied 1/3 deduction towards personal expenses. It is evident from paragraph No. 7 of the said judgment where the Hon'ble Supreme Court has held that "in the facts and circumstances of the case, the same (deduction of 1/3) should be applied". In view of the peculiar facts involved before the Hon'ble Supreme Court and considering that the Hon'ble Supreme Court was exercising its exclusive jurisdiction (which is not available with this Court), said judgments will not advance the case of the Appellants/Claimants in the peculiar facts of this case.

12. In the present case, it has come on record that the deceased was a bright student, who had studied up to BSC Agriculture, completed MS-CIT course, appeared for relevant examination for proficiency in sanskrit language, completed computer typing test and while studying at S.P. College Pune in second year of MA degree, she was also aspiring for UPSC and had appeared for such examination. It is also undisputed that the Appellants/Claimants are a family of husband and wife with four children including the deceased. They are three daughters and one son. The cause

title of the application indicates that all the children are taking education. In such circumstances, it is difficult to believe that the Appellant No. 1-father was not employed anywhere or has no source of income and was completely dependent, as claimed by him. While running the family with four children taking education, it is most unlikely that the family would depend on the income that would have been contributed by the deceased after getting employed.

13. I have perused the claim application as well as the oral evidence of sole witness for the Appellants i.e. Appellant No. 1. In the application and affidavit of examination-in-chief, there is no whisper that the Claimants are fully dependents or that the deceased was contributing to any family-expenses. The siblings are stated to be taking education and the deceased herself was taking education. Therefore, it is difficult to believe that the deceased herself was contributing anything towards family expenses. In these peculiar facts, when the Claimants are seeking deviation from the established rule of applying 50% deduction in case of an unmarried person, it was for the Appellants/Claimants to establish by leading positive evidence that there was contribution from the deceased. The argument of the Respondent Insurance Company, defending 50% deduction applied, cannot be construed to mean that the Insurance Company is trying to carve out a separate class of unmarried persons who meet with an accident. The argument is squarely an argument advanced in the facts of the present case and therefore, the Appellants' argument about alleged discrimination has no merit.

14. It is trite law that factors such as 'deduction' and 'future prospects' must be dealt with in uniformed and structured manner. The deduction cannot be applied in the absence of evidence about dependency at the instance of Claimants, who are seeking deviation from the established rule. In my view, the peculiar facts of the present case does not warrant for any deviation from the 50%.

15. The argument of learned counsel for the Appellants/Claimants that non-earning deceased is an alien concept is acceptable so far as the concept of 'notional income' or 'future prospects' are concerned. To say that the deceased was not earning at all (in cases such as students and minors taking education etc.) would render a situation where there cannot be any basis for the loss or compensation to be calculated. For such purpose, nominal income is required to be guessed. Same is case with the concept of future prospect. To say that the deceased would have not had any increment in the income and would have had no prospects at all, is incorrect and therefore future prospects are applied in structured manner based on age bracket and touchstone of having permanent employment or other employment or being self employed. This is clear from the celebrated judgment of **National Insurance Company Limited Vs. Pranay Sethi and Others [(2017) 16 SCC 680]**. However to say that since there cannot be a non-earning deceased, it must be presumed that even a non-earning deceased was contributing to family or family was dependent (in absence of evidence) thereby restricting deduction, in my considered view, is not proper course of action. Hence the argument about applicable deduction has no merit.

16. No arguments are advanced on any other head of compensation and therefore they are not being interfered with.

17. In the aforesaid facts and circumstances and for the reasons indicated above, the Appeal succeeds only partly on the aspect of multiplier.

18. Accordingly, the Appeal is partly allowed by passing following order. The Appellants/Claimants are held entitled to **Rs. 40,58,300/-** from the Respondent No.1/Insurance Company, with interest @ 9% p.a. from date of claim application till realization, as per calculation below.

Monthly Net Income =	Rs. 25,000/-
Annual Income (x12)=	Rs. 3,00,000/-
Multiplier (x18) =	Rs. 54,00,000/-
Add Future prospects (40%) =	Rs. 54,00,000/- + Rs. 21,60,000/- = Rs. 75,60,000/-
1/2 deduction =	Rs. 37,80,000/-
Total loss of income =	Rs. 37,80,000/-
Funeral Expenses =	Rs. 18,150/-
Loss of Estate =	Rs. 18,150/-
Loss of Consortium	Rs. 48,400 x 5 = Rs. 2,42,000/-
Total compensation =	Rs. 40,58,300/-
Amount granted by Tribunal =	Rs. 13,28,300/-
Enhancement granted =	Rs. 27,30,000/-

19. Appellants are directed to pay additional court fee, if required under the applicable Rules, considering the enhanced amount.

20. First appeal and pending interim application, if any, is disposed of in above terms. All concerned to act on duly authenticated or digitally signed copy of this order.

[M. M. SATHAYE, J.]