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

FIRST APPEAL NO. 1595 OF 2025

UNITED India Insurance Company Limited
Ajinkya Arkade, Chinchanaka, Chiplun
Tal. Chiplun, Dist. Ratnagiri ...Appellant/
Orig. Opponent No.4

Versus

1. Shri. Parshuram Shankar Pawar
Age About 45 years, Occu- Labour ..Original Claimant No.1

2. Sau. Bebutai Prashuram Pawar
Age: 40 years, Occ: Housewife
Both resident of Devulprij Tanda
Tal. Shindagi, Dist., Vijapur,
State: Karnataka ..Original Claimant No.2

3. Shri. Jalamsingh Savaisingh
Age: 33 years, Occ. Driving
Resident of Shigarbasti, Barmer Garden
Barmer, Rajasthan
(Deleted as per order below Ex. 19) ..Original Opponent No.1

4. Shri Isahaq Mohammad Nur Mohammad
Shaikh, Resident of Shigarbasti, Barmer
Gadan Barmer Rajasthan
(Deleted as per order below Exh. 19) ..Original Opponent No.2

5. Shivkumar Laxman Pawar
(Tractor Driver)
Age-28 years, Occu- Driver
Dabhil, Bajarwadi
Tal. Khed, Dist. Ratnagiri ..Original Opponent No.4

6. Ravindra Laxman Pawar
(Tractor Owner)
Age 35 years, Occu. Contractor
Resident of Dabhil, Bajarwadi
Tal. Khed, Dist. Ratnagiri ..Original Opponent No.5
...Respondents.

WITH
INTERIM APPLICATION NO. 10107 OF 2025
IN
FIRST APPEAL NO. 1595 OF 2025

UNITED India Insurance Company
Limited And Ors. ...Applicants
Versus
Shri. Parshuram Shankar Pawar And Ors. ...Respondents

WITH
INTERIM APPLICATION NO. 11223 OF 2025
IN
FIRST APPEAL NO. 1595 OF 2025

Shri. Parshuram Shankar Pawar And Anr ...Applicants
Versus
UNITED India Insurance Company
Limited And Ors. ...Respondents
IN THE MATTER OF:
UNITED India Insurance Company
Limited And Ors. ...Appellants
Versus
Shri. Parshuram Shankar Pawar And Ors. ...Respondents

***

Ms. Vaishali Manoj Patil @ Murchite a/w Saourabh Manoj Patil for the Appellant/Insurance Company.
Mr. Shreyash S. Butala (Through V. C.) for the Respondents/Claimants.

***

CORAM : M. M. SATHAYE, J.

DATE : 25th MARCH, 2026.

ORAL JUDGMENT :

1. Admit.

2. Considering that the Appeal is filed only on the ground of quantum, it is taken up for final disposal immediately.

3. Heard learned counsel for the Appellant-Insurance Company and learned counsel for Respondent Nos. 1 and 2-Claimants.

4. The Appeal is filed by Insurance Company challenging the impugned judgment and award dated 11.03.2024 passed in Motor Accident Claim Petition No. 31 of 2016 by Motor Accident Claims Tribunal,

Khed, Tal. Khed, Dist. Ratnagiri. By the impugned judgment and award, the Appellant-Insurance Company is directed to pay compensation of Rs. 16,68,076/- with interest @7% p.a. from the date of filing of claim till realization.

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

5.1 The Respondents/Claimants are parents of deceased Mahesh Parshuram Pawar. The claim is filed under Section 166 of the Motor Vehicles Act, 1988 ('MV Act' for short).

5.2. The case of the Claimant is as under. That on 16.04.2016, the deceased and his friend were going to Khed in the tractor with trolley. At about 9.30 am, the offending vehicle (Truck No. GJ-24/U-1189) came in high speed and while trying to overtake another truck, gave dash to the tractor. In the said accident, deceased sustained grievous injuries, who was taken to hospital. However, he succumbed to the injuries during treatment. The offence was registered against the driver of the offending Truck, which was insured with the Appellant-Insurance Company. That the deceased was 19 years old at the time of accident and was doing business of colour painting and was earning an amount of Rs.20,000/- to 25,000/- per month. Compensation of Rs. 20,00,000/- was claimed.

5.3. The owner and driver of the offending Truck were deleted. The claim proceeded ex-parte against the owner and driver of the tractor involved.

5.4 The Appellant-Insurance Company resisted the claim contending *inter alia* that the driver of the tractor was responsible and this is a case of composite negligence. That deceased was unauthorized passenger on the tractor. That since the deceased was minor and there is no proof of income.

5.5. The Tribunal on appreciation of evidence has passed impugned judgment and award, as indicated above.

6. Learned counsel for the Appellant-Insurance Company submitted as under. That in the absence of income proof, monthly income of Rs.8,000/- assessed by the Tribunal is on higher side. That there is no documentary age proof. That in today's time it is unbelievable that there is no documentary proof of age. That therefore age of 17 years claimed by the Respondents-Claimants is not believable. That the deduction of 1/3 is ex-facie incorrect, in as much as, the deceased was a bachelor. That future prospects of 50% could not be awarded in light of the Judgment of **National Insurance Company Limited Vs. Pranay Sethi and Others [(2017) 16 SCC 680].**

7. On the other hand, learned counsel for the Respondents/Claimants submitted as under. That the age of the deceased has been considered on the basis of deposition of parents as well as the post-mortem report and it is believable. That the income assessed is appropriate and needs no interference. That the multiplier of 16 is wrongly applied and it should be 18 as per settled position of law, under **Salra Verma (Smt) and Others Vs. Delhi Transport Corporation and Another [(2009) 6 SCC 121]** and considering the age of deceased.

8. I have considered the rival submissions and perused the record.

9. So far as the assessment of income is concerned, the Tribunal has considered the evidence on record and has arrived at the figure of Rs.8,000/- per month, which, in my view needs no interference considering the fact that according to the Claimants, the deceased was doing business of colour-painting. Already the claimed amount of earning (Rs. 20,000/- to Rs. 25,000/- per month) is reduced substantially. Therefore no interference is necessary in the figure of Rs. 8,000/- per month assessed.

10. Admittedly, the deceased was unmarried/bachelor at the time of accident and only parents are Claimants, the deduction applied by the

Tribunal is incorrect and the proper deduction is 1/2 i.e. half, following the settled law.

11. Considering the law led down by the Hon'ble Supreme Court in **Pranay Sethi (supra)** read with **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and Others[(2018) 18 SCC 130]**, since there is no evidence about the deceased having any job, much less permanent job, future prospect of 50% cannot be applied and the same will have to be reduced to 40%. Other heads, such as loss of consortium etc. are already considered by the Tribunal.

12. Since the age of the deceased has been assessed on the basis of postmortem report, which is a piece of medical evidence coupled with deposition of parents, assuming either 17 or 19 years of age at the time of accident, it falls under the bracket of 15 to 20 as provided under paragraph No.42 (SCC Version) of **Sarla Verma (supra)** and therefore, the multiplier ought to have been applied as 18.

13. So far as the aspect of enhancement to Claimants by increasing multiplier in absence of cross-objections, in an Appeal by Insurance Company is concerned, it is important to note that in **Surekha w/o Rajendra Nakhate and Ors vs. Santosh s/o Namdeo Jadhav and Others [(2021) 16 SCC 467],** three judges Bench of the Hon'ble Supreme Court has held as under:

> "1. Leave granted. This appeal takes exception to the judgment and order dated 4-1-2019 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No. 2564 of 2016, whereby the High Court, even though agreed with the stand of the appellants that just compensation amount ought to be Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal.

> 2. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hypertechnical approach and ensure that just compensation is awarded to the affected person or the claimants."

(emphasis supplied)

14. Recently the above judgment is followed by learned Single Judge of this Court in **United India Insurance Company Limited Versus Rukmini Deepak and Others [2025 SCC OnLine Bom 2589]** by considering many other judgments including (i) A.P.S.R.T.C. Rep. by its General Manager v. M. Ramadevi [(2008) 3 SCC 379], (ii) United India Insurance Company Limited vs. Kunti Binod Pande and Others [2019 SCC OnLine Bom 5606], (iii) National Insurance Co. Ltd. vs. Vaishali Harish Devare and Others [2013 (1) Mh.L.J. 411], (iv) Manager, National Insurance Co. Ltd., Pune vs. Nelesh Suresh Bhandari and Others [2022 SCC OnLine Bom 4749], (v) Solapur Municipal Corporation and Anr. vs Mrs. Rupali Rahul Pawar and Ors. [Judgment of this Court passed in First Appeal No. 476 Of 2016 dated 29.08.2023].

15. Therefore it is clear that the Court is under obligation to award just compensation and there is no embargo in enhancing the compensation in absence of appeal or Cross Objection by the Respondents-Claimants.

16. No argument is advanced by Insurance company about date of accident and its effect on 10% increase every 3 years in figures of loss of estate, consortium etc. Therefore amount under those heads are being continued.

17. Therefore, for above reasons, the appeal partly succeeds and the Respondent Nos. 1 & 2 (Claimants) are held entitled to recover an amount of **Rs.13,41,600/-** with interest @7% p.a. from the date of Claim Petition till realization, as per calculations below.

Monthly Income =	Rs.8,000/-
Annual Income (x12) =	Rs.96,000/-
Multiplier (x18) =	Rs. 17,28,000/-
Add: 40% future prospects =	Rs. 17,28,000/- + Rs. 6,91,200/- = Rs.24,19,200/-
Less 1/2 deduction for personal expenses =	Rs.12,09,600/-
Total income =	(A) Rs.12,09,600/-
Funeral Expenses =	(B) Rs.18,000/-
Loss of Estate =	(C) Rs.18,000/-
Loss of Consortium for parents (x2)	Rs.48,000 x 2 = (D) Rs.96,000/-
Total compensation held payable =	**Rs.13,41,600/- (A+B+C+D)**
Awarded by Tribunal =	Rs.16,68,076/-
Reduced amount =	Rs.3,26,476/-

18. The Statutory Deposit of Rs. 25,000/- in this Court (Registry) is directed to be transferred to concerned Tribunal, alongwith accrued interest (if any), if not already transferred. 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).

19. The Appeal is disposed of in the above terms. In view of disposal of the Appeal, Interim Applications (seeking interim stay and withdrawal of amount) are also disposed of in above terms. No order as to costs.

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

[M. M. SATHAYE, J.]