

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 75 OF 2026

Future Generali India Insurance Co.Ltd. ...Appellant
Versus
Smt. Lata Kishor Mistry And ...Respondents
Ors

Ms.Rajesh Kanojia i/b RES Juris for the Appellant.

Mrs Kavita Anchan for the Respondents

CORAM: R. M. JOSHI, J.

DATED: 13th March, 2026

PC:-

1. By consent of both sides, heard, finally at the admission stage.
2. This appeal has been filed by the Appellant- Original Insurer takes exception judgment and award order dated 15th October, 2019 passed by Motor Accident Claims Tribunal, Mumbai, whereby the death claim filed by the claimants was allowed by directing payment of compensation of Rs. 39,48,771/- with interest @ 7.5% p.a. from the date of application till realisation of the amount.

3. Insurer takes exception to the impugned judgment and award on the ground that the tribunal granted excessive compensation by accepting the notional income of the deceased @ 27,500/- so also by granting future prospects at the rate 25% instead of 10%.

4. Learned counsel for the appellant-insurer drew attention of the Court to the findings recorded by the Tribunal discarding the evidence led by the claimants in respect of the income of the deceased. It is his submission that once the claimants failed to prove income of the deceased, Tribunal is not justified in accepting notional income at the higher rate than the income claimed by the claimants. It is his further submission that, considering the age of the deceased at the time of his death, the tribunal ought to have granted future prospects to the extent of 10% instead of 25%.

5. Learned Counsel for the Claimants supported impugned judgment and award. It is her submission that in fact the claimants succeeded in improving the occupation and income of the deceased. In this regard she drew attention of the Court to witness examined by the claimants who was engaged by the deceased for the work. It is her further submission that owing to age of the deceased, Tribunal has rightly calculated future prospects to the extent of 25%.

6. There is no dispute with regard to the fact that

the claimant in the application stated that the deceased was earning Rs. 25,000/- to 30,000/- per month. In order to substantiate the said claim, evidence was led. The tribunal however refused to accept the evidence led by the claimant on the ground that the evidence of close relative of the deceased is not free from doubt in order to ascertain income of the deceased. This finding has not been challenged by the claimants.

7. The learned Tribunal, after rejecting evidence of claimants and holding that income claimed by them of deceased has not been proved, went on grant compensation on the basis of a notional income of Rs. 27,500/-. This Court finds substance in the contention of the Learned counsel for the Appellant that once the claimants fail to substantiate the income of the deceased, Tribunal could not have held notional income at the higher rate than the one claimed by the claimants. In such circumstances this Court finds it appropriate to consider the income of the deceased at the rate of Rs.25,000/- instead of 27,500/-.

8. In so far as future prospects are concerned having regard to the date of birth of deceased i.e. 29.06.1965, calculation of compensation by accepting future prospects to the extent of 25% is fully justified.

In the view of the above claimants would be entitled to receive following compensation.

Calculation Sheet			
A	Monthly Income		25000/-
B	Annual Income	x 12	300000/-
C	Annual Income after tax deduction of Rs. 5000 (10% tax deduction)		295000/-
D	Future Prospects	25%	368750/-
E	Personal Deduction	1/4th	276562/-
F	Multiplier Value		13
G	Amount After Multiplier		3595306/-
	Conventional Heads		
H	Loss of Estate		15000/-
I	Funeral Expenses		15000/-
J	Consortium	48000 x 4	192000/-
K	Total	G+H+I+J	3817306/-
L	Amount awarded by Tribunal		3948771/-
M	Amount to be refunded		131465/-

In view of the above discussion following order :-

ORDER

- (i) Appeal stands partly allowed.

(ii) Claimants shall be entitled to receive a sum of Rs. 38,17,306/- along with interest as per impugned judgment and award.

(iii) Appellant is entitled to receive Rs. 1,31,465/- along with interest accrued thereon.

(iv) Rest of judgment and award to remain unchanged.

(R. M. JOSHI, J.)