**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 713 OF 2024**

National Insurance Co. Ltd.
Divisional manager, Shubharaya Towers,
Datta Chowk, Solapur

Through its Regional Manager,
National Insurance Co. Ltd., Mumbai
Regional Office -3, T.P.Hub, 1st Floor,
National Insurance Building, Churchgate,
Mumbai – 400 020 (M.S.) … Appellant (Ori. Opp. No.2)

Versus

1 Mrs. Jakiya Firozkhan Pathan
Age- 41 Years, Occ : Household
R/o. Plot No.54, Samata Nagar, Mulegaon
Road, Solapur, Dist : Solapur

2 M/s. Rivigo Services Pvt. Ltd.
R/o. P. No. 90, 3rd Floor, Sec. 44,
Near Huda City Center, Gurgaon,
Haryana - 122002 … Respondents (No.1 Ori. Claimant)

Mr. Amol Gatne, Advocate for the Appellant.
Mr. Ajit V. Alange, Advocate for Respondent No.1.

**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 13th AUGUST, 2025.**

**Judgment :**

1. This appeal is preferred by the appellant-Insurance Company against the judgment and order passed by the Motor Accident Claims Tribunal, Solapur (for short "the Tribunal").

2. It is contention of learned counsel for the appellant that the deceased was beggar but the Tribunal has considered his income at

Rs.4500/- per month without any evidence on record. Learned counsel further submitted that the claim petition was filed by the sister of the deceased, she cannot be considered as dependent on deceased. Learned counsel further submitted that there is no proof of age of deceased produced on record but the Tribunal has considered his age as 30 years, the post-mortem report shows his age as 32. The Tribunal has awarded interest @ 9% on compensation amount, which is on higher side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.1-claimant that the deceased was working in the furniture shop and getting salary of Rs.9000/- per month but the Tribunal has considered his monthly income as Rs.4500/- which is proper. Learned counsel further submitted that the deceased was unmarried and staying with the claimant and the husband of the claimant is blind. Hence, the claimant was totally dependent on the salary of the deceased. Learned counsel further submitted that adhaar card is produced on record to shows the age of the deceased and on that basis, the Tribunal has considered age of the deceased, which is proper. Learned counsel submitted that consortium amount is not awarded, it be awarded and requested to dismiss the appeal.

4. I have heard both learned counsel, perused the judgment and order passed by the Tribunal.

5. It is claimant's case that the deceased was working as helper

and earning Rs.9,000/- per month. To prove the income of the deceased, claimant has examined herself. She has stated that the deceased was her younger brother. He was unmarried and he was getting salary of Rs.9,000/- per month. She has stated that her husband is blind, hence, she was dependent on the income of the deceased.

7. To prove the income, the claimant has examined Mr. Vyankatesh Saggam, owner of the furniture shop. He has stated that the deceased was working in his shop from 2016 as helper and he was giving him Rs.9,000/- per month. The salary slip is at Exhibit-37 and shop license is at Exhibit-39. Nothing elicited in cross-examination of this witness.

8. While dealing with the issue of income of the deceased, the Tribunal has observed that the deceased was working in shop of PW2 and his evidence cannot be disbelieved that deceased was getting Rs.9,000/- per month. On that basis, the Tribunal has considered notional monthly income of the deceased at Rs.4,500/-. I do not find infirmity in it.

9. In my view, at the time of the accident, the deceased was around 30 year old. He was staying with his sister and her family. His sister's family was dependent on him. The owner of the shop has categorically stated that he was paying Rs.9000/- per month to the deceased but the Tribunal has considered his notional monthly income at Rs.4500/-. The said salary is not challenged by the claimant, hence, I am considering the income of the deceased considered by the Tribunal is

proper.

10. While dealing with the issue of dependency, the Tribunal has observed that the claimant was legal representative of the deceased and legal representative can be considered as dependent. I do not find infirmity in it. In my view, the claimant, on oath has stated that her husband is blind. The deceased was unmarried and he was staying with the claimant and maintaining her family. Hence, I do not find merit in the contention that the claimant cannot be considered as dependent of the deceased.

11. While dealing with the issue of age of the deceased, the Tribunal has observed that Exhibit-42 – Aadhar Card produced on record shows the age of the deceased as 30 years. On that basis, the Tribunal has considered the age of the deceased as 30 years. I do not find infirmity in it

12. The Tribunal has awarded Rs.25,000/- for loss of life and affection and funeral expenses. As per the view of Hon'ble Apex Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled for Rs.48000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18000/- for funeral expenses. There is one claimant, so the total amount comes to Rs.84,000/-. If the amount of Rs.25,000/- granted by the Tribunal is deducted from Rs.84,000/, it comes to Rs.59,000/- The claimant is entitled for this amount.

13. The Tribunal has awarded interest @ 9% on compensation amount. In my view, it is on higher side, hence, I am considering it at 7.5% per annum.

14. In view of above, I pass following order :

**O R D E R**

(1) The appeal is partly allowed.

(2) The claimant is entitled for compensation amount awarded by the Tribunal @7.5% p.a. instead of 9% p.a. from the date of filing of the claim petition till realistion of the amount.

(3) The claimant is entitled for enhanced compensation of Rs.59,000/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.

(4) The appellant-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.

(5) The claimant is permitted to withdraw the enhanced amount along with accrued interest thereon.

(6) The claimant shall pay deficit court fees on enhanced amount, if any, as per Rule.

(7) Record and Proceedings be sent back to the Tribunal.

15. Pending applications, if any, stand disposed of.

**(SHIVKUMAR DIGE, J.)**