



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

FIRST APPEAL NO. 924 OF 2022

National Insurance Compant Ltd
R/O. Hyderabad Regional Office
S-8-568, First Floor Building Nampalli
Station Road, Hyderabad-500001
R/O Sangli High School Road
Near Jain Basti, Third Floor
Mahavir Nagar Sangli
(Summons Served On Respondent No.3
Sangli Branch)

...Appellant

VERSUS

1. Sou. Malan Anil Holkar
Age-53 Years, Occu-Majuri
2. Anil Vishnu Holkar
Age-23 Years, Occu: Education
3. Alfred Anil Holkar.
Age 35 Years
All R/O Kisan Sah Niwas, Brahmanpuri
Dindivase Behind Ideal English School
Miraj, Dist Sangli.
4. Mohammad Abdul Mehraj Rashid Akhathar
Age-Major Years, Occu-Trader/Vehicle
Owner, R/O.9-3-120/47 M.D.Line Durga
Nagar, Mohadipatnam, Hyderabad
State- Andhra Pradesh
5. Shri. Upendra Sharnappa Udbalkar
Age-50 Years, Occu-Driver
R/O Hipparga, Post Kappargaon
Tal-Humanabad, Dist Bidar
State-Karnataka.

...Respondents

WITH

FIRST APPEAL NO. 1608 OF 2025

1. Sou. Malan Anil Holkar
Age-59 Years, Occu-Service
2. Anil Vishnu Holkar
Age-72 Years, Occu: Nil
3. Alfred Anil Holkar.
Age-34 Years Occ. Service
All R/O Kisan Sah Niwas, Brahmanpuri
Dindi Ves, Behind Ideal English School
Miraj, Dist Sangli. ...Appellants

VERSUS

1. Shri. Mohammad Abdul Mehraj Rashid Akhathar
Age-56 Years, Occu-Trading/Vehicle Owner,
R/o.9-3-120/47 M.D.Line, Durga Nagar,
Mohadipatnam, Hyderabad
State- Andhra Pradesh,
2. Shri. Upendra Sharnappa Udbalkar
Age-56 Years, Occu-Driver
R/o. Hipparga, Post Kappargaon
Tal-Humanabad, Dist Bidar,
State-Karnataka,
3. National Insurance Compant Ltd.,
Address : Hyderabad Regional Office,
S-8-568, First Floor, Building Nampalli,
Station Road, Hyderabad-500001,
Address : Sangli Highschool Road,
Near Jain Basti, Third Floor,
Mahaveer Nagar Sangli ...Respondents

Mr. Akshay Kulkarni a/w Avesh Ghadge and Aditya Ghadge for the Appellants/Claimants in FA/1608/2025.

Mr. Akshay Kulkarni a/w Avesh Ghadge and Aditya Ghadge for the Respondent Nos. 1 to 3 Claimants in FA/924/2022.

Mr. Vishwjeet A. Desai a/w Adv. Amey V. Mahajan i/b Ashok Desai for Respondent No. 3-Insurance Company.

CORAM : M. M. SATHAYE, J.

DATE : 16th MARCH, 2026.

ORAL JUDGMENT :

1. First Appeal No. 924 of 2022 is filed by the Insurance Company challenging the impugned judgment and award dated 16.12.2021 passed by Motor Accident Claim Tribunal (MACT), Sangli in Motor Accident Claims Petition (MACP) No. 133 of 2016. By the impugned judgment and award, the Appellant Insurance Company is held liable jointly and severally with the owner and driver of the offending vehicle to pay to Claimant No. 1 (Smt. Malan Anil Holkar) alone, an amount of Rs.21,93,000/- including no fault liability amount with interest at the rate of 7% p. a. from the date of claim application till realization of the amount. The same judgment and award is challenged by the Claimants by filing First Appeal No. 1608 of 2025 seeking enhancement in the amount awarded.

2. Thus, the Insurance Company as well as the Claimants are in cross appeals, one seeking reduction and the other seeking enhancement respectively.

3. Few facts necessary for disposal of these Appeals are as under :

3.1. The Claimants are mother, father and brother of deceased Alan Holkar, who was 23 years student taking education in BHMS course in third year.

3.2. On 7.11.2014 at 12.30 noon, the motorcycle being driven by deceased was dashed by the offending truck (AP-15-X-6303) which was owned by Opponent No.1, driven by Opponent No. 2 and insured with Opponent No. 3 in claim petition. Rs.1,32,25,000/- was claimed as compensation under section 166 of the Motor Vehicles Act, 1988 ('MV Act' for short). The owner and driver did not appear before the Tribunal and an order of ex-parte-hearing was passed against them.

3.3. The Insurance Company filed written statement denying *inter alia* the age and amount of compensation claim. It was contended that the offending truck was being driven slowly and it is the deceased who was driving in rash and negligent manner, who dashed on the cleaner side of the vehicle, hence entirely responsible for the Accident.

3.4. Claimant No. 1 led oral evidence along with documentary evidence. The Insurance Company did not lead any evidence despite sufficient opportunity granted.

3.5. The learned Tribunal, on appreciation of evidence, came to the conclusion that Rs.20,000/- can be taken as the income of deceased. Deduction of $\frac{1}{2}$ was applied because the deceased was unmarried and considering the age of deceased, which was 23 years, multiplier of 18 is applied.

4. Learned counsel for the Insurance Company submitted that it has come of record that the deceased was a below-average student taking education of homeopathy (BHMS) and as such, amount assessed by the Tribunal of Rs.20,000/- per month is on higher side. He submitted that considering the evidence on record amount, Rs. 10,000/- per month would have been appropriate and future prospects of 40% can be applied. He relied on the judgment of Hon'ble Supreme Court in **Meena Pawaia and Others vs. Ashraf Ali And Others [(2021) 17 SCC 148]** in support of his case. He further submitted that the Claimant No. 1 is a pensioner lady, Claimant No. 2 has expired and Claimant No. 3 is an employed brother of deceased and therefore none of them can be considered as dependents.

5. On the other hand, learned counsel for the Claimants submitted that this is a fit case for enhancement because the deceased was aspiring to become homeopathy doctor and considering the claim made of Rs.40,000/- per month, the Tribunal was not justified to conclude Rs.20,000/- as monthly income. Relying on **Divisional Controller Maharashtra State Road Transport Corporation and Ors vs. Govind and Ors. [2025(6) AIR BomR 642]**, it is contended that this Court has recently awarded compensation taking Rs. 50,000/- as just an appropriate income in which the deceased was a final year MBBS student. He submitted that considering that the deceased in the present case was not an MBBS student but was studying homeopathy, necessary reduction can be applied, but at least Rs.30,000/- to Rs.35,000/- per month should be considered as income and future

prospect of 40% should be applied. He also relied upon **Chandrikaben Satishkumar Azad vs. Mani Pandurang Kavandar and Anr. [Bombay High Court FA/229/2024 Order dated 05.08.2025]** in support of his case.

6. I have considered the rival submissions carefully and perused the record.

7. In **Divisional Controller MSRTC vs. Govind (supra)** the learned Single Judge of this Court after taking stock various judgments of the Hon'ble Supreme Court has taken realistic approach and has held that considering that the deceased was a meritorious student of final year MBBS course, an amount of Rs.50,000/- can be considered as just basis-amount for calculation.

8. In the present case, though it has come on record that the deceased was third year BHMS (homeopathy) student, who has scored less than 50%, it cannot be assumed that the deceased could not have earned well as a future homeopathy doctor. The Tribunal, based on the marks obtained in second year BHMS exam (less than 50%) held that *'it is exaggeration to hold that by running homeopathy clinic, Rs.40,000/- could have been earned'*.

9. In my view, such direct connection between 'marks obtained during academics' and 'potential to earn after becoming a professional' can not be justified. 'Academic excellence' is different and 'ability to earn as a professional' is different. Just as it is true that, academically excellent student may or may not earn well, it is also equally true that academically average or even below-average student may earn very well in practice or profession. What is necessary to be considered is that a student aspiring to become a homeopathy doctor, who had reached third year of the concerned degree course, was lost in the accident. Therefore the reason based on which the amount is reduced is found unjustifiable.

10. The Hon'ble Supreme Court in **Chandra alias Chanda alias Chandram and another Vs. Mukesh Kumar Yadav and Others [(2022) 1 SCC 198]** has held in Paragraph 9 as under :

“9. ~~xxx~~ In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because the claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000 per month.”

[emphasis supplied]

11. In recent judgment of **Prabhavathi and Others Vs. Managing director, Bangalore Metropolitan, Transport Corporation [2025 SCC OnLine SC 455]** the Hon’ble Supreme Court has held in Paragraph 13 as under :

“13. It is settled law that under the Motor Vehicle Act, 1988 it is established that in compensation cases, the strict rules of evidence used in criminal trials do not apply. Instead, the standard of proof is based on preponderance of probability.”

12. Therefore reasonable guess work attached to reality is both necessary and permitted based on facts and circumstances of each case, which is what this Court is attempting to do.

13. The family of the student is from Miraj City of District Sangli. Deceased could have completed his homeopathy course and started practice in Miraj City or elsewhere as per his choice and resources. Considering the overall background of the Claimants’ family and the fact that deceased was a student of medical profession of homeopathy, partial enhancement needs to be granted to the extent of Rs.30,000/- per month.

14. So far as the argument of Insurance Company that none of the Claimants are dependents, it is material to note that the Tribunal has granted compensation only in favour of the mother of deceased and there is nothing on record to indicate that Claimant No. 1 (mother) is receiving pension as claimed. Admittedly, the Insurance Company has not led any evidence and therefore, such assumption cannot be made. In that view of the matter, the argument about absence of dependency has no merit.

However, in the facts of the case, I am inclined to grant compensation only to mother, as granted by the Tribunal.

15. The judgment relied upon by the Insurance Company in **Meena Pawaia Vs. Ashraf Ali (supra)** is a case where the deceased was third year 'engineering student' and in the facts and circumstances of that case, Rs.10,000/- per month was considered as just and proper income. The present case necessarily differs on facts, inasmuch as the deceased was 'a BHMS (homeopathy) student aspiring to become doctor.' Therefore, the said judgment will not advance the case of Insurance Company.

16. Considering that enhancement is being granted, interest rate as awarded by the Tribunal is not being interfered with.

17. In view of the law laid down by Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi (2017) 16 SCC 680**, at least 40% future prospect can be safely applied and other heads such as loss of consortium, loss of estate and funeral expenses etc. can be applied.

18. However, considering that accident is of the year 2014 and judgment of Pranay Sethi (supra) fixing figures, is rendered in October 2017, at the most same figures fixed in the year 2017 can be applied. Considering that enhanced amount is going to be granted with interest from date of application, 10% increase every 3 years, post 2017 as directed in paragraph 59.8 thereof, shall not apply in this case in my considered opinion.

19. In the aforesaid facts and circumstances and for reasons indicated above, the Appeal of Insurance Company has no merit and appeal of the Claimants deserves to be allowed partly.

20. Accordingly, First Appeal No. 924 of 2022 filed by Insurance Company is dismissed. First Appeal No. 1608 of 2025 filed by the Claimants is partly allowed as under.

21. Accordingly Claimant No.1 Smt.Malan Anil Holkar is held entitled to receive and recover from Respondent-Insurance Company an amount of Rs.

46,06,000/- with interest @ 7% p.a. from the date of claim application till realization. It is as per the calculations given below.

Monthly Income =	Rs. 30,000/-
Annual Income =	Rs. 3,60,000/-
Multiplier 18 =	Rs. 64,80,000/-
Add: 40% future prospects =	Rs. 64,80,000/- + 40% = Rs. 90,72,000/-
Less ½ deduction for personal expenses =	Rs. 45,36,000/-
Total income =	Rs. 45,36,000/-
Funeral Expenses =	Rs.15,000/-
Loss of Estate =	Rs. 15,000/-
Loss of Consortium for mother	Rs. 40,000/-
Total compensation =	Rs. 46,06,000/-
Less awarded by Tribunal =	Rs. 21,93,000/-
Enhanced amount =	Rs. 24,13,000/-

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

[M. M. SATHAYE, J.]