



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

**FIRST APPEAL NO.4506 OF 2017**

- 1) Monika w/o Ajay Kale  
Age: 24 years, Occu. Household,
- 2) Priya d/o Ajay Kale  
Age: 6 years, Minor,  
Through her legal guardian  
i.e. appellant No.1

R/o Gunwadi, Tq. Nagar,  
District: Ahmednagar

**... APPELLANTS  
(Orig. Claimants)**

**VERSUS**

- 1) Kisan s/o Rama Haral  
Age: 45 years, Occu. Driver,  
R/o Deulgaon, Tq. Nagar,  
District: Ahmednagar
- 2) Maharashtra State Road Transport Corporation,  
Division Manager,  
Ahmednagar Division Sarjapura,  
Ahmednagar
- 3) Yunus s/o Roshan Kale  
Age: 55 years, Occu. Labour,  
R/o. Gunwadi, Dist. Ahmednagar
- 4) Kaveri @ Kavirabai w/o Yunus Kale  
Age: 50 years, Occu. Household,  
R/o Gunwadi, Dist. Ahmednagar

**... RESPONDENTS**



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Mr. Shubham Jayabhar h/f Mr. D. R. Jayabhar, Advocate for Appellants

Mr. Atul Pawar (through VC) h/f Mr. Bhausahab S. Deshmukh, Advocate for Respondent No.2

Mr. Shaikh Layak S., Advocate for Respondent Nos. 3 and 4 (Absent)  
Respondent No.1 served.

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**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : June 08, 2026**

**PRONOUNCED ON : June 11, 2026**

**JUDGMENT :-**

1. This is an appeal filed by the original claimants, being the legal heirs of deceased Ajay Kale, who sustained injuries in a road traffic accident dated 31.10.2008 and subsequently succumbed thereto.

2. Deceased Ajay, accompanied by his mother-in-law, was travelling on a motorcycle bearing Registration No. MH-16-AA-9473 on 31.10.2008. While they were in the vicinity of Samadhan Hotel on Nagar-Daund Road, the motorcycle was hit by S.T. bus bearing Registration No. MH-20-D-9124, which came from the opposite direction. As a result of the said accident, the deceased sustained fatal injuries and died on the spot, whereas the pillion rider, his mother-in-



law, suffered grievous injuries. Therefore, the wife and minor daughter of the deceased filed M.A.C.P No. 82 of 2008 against the driver of the S.T. bus as well as its employer, the M.S.R.T.C., Ahmednagar, and claimed compensation of Rs. 8,00,000/- under the provisions of the Motor Vehicles Act.

3. The above claim was contested by the respondent no.2, who denied the claim, negligence, as well as the age and income of the deceased.

After appreciating the oral and documentary evidence, the learned Tribunal was pleased to partly allow the claim and by its judgment and award dated 21.02.2012, awarded compensation of Rs. 6,00,000/- with interest at the rate of 7.5% per annum.

4. Being aggrieved and dissatisfied by the above award, the claimants have preferred the instant appeal primarily for enhancement of compensation.

5. Learned counsel for the appellants submitted that the learned Tribunal has neither considered nor appreciated the oral and documentary evidence in its proper perspective. He pointed out that



the deceased was a young man aged about 23 years and was earning his livelihood by running a grocery shop, which was the main source of income for the family. However, the income derived from the said business has not been taken into account by the learned Tribunal, which has merely considered a notional income of Rs. 4,000/- per month while awarding compensation.

6. According to the learned counsel, even in terms of the Minimum Wages Act, the learned Tribunal ought to have assessed the income of deceased not less than Rs. 5,000/- per month. He further contended that the claimants are also entitled to compensation towards future prospects, consortium, and other non-pecuniary damages. Therefore, he urged that the appeal be allowed by enhancing the compensation awarded by the learned Tribunal.

7. Learned counsel for the respondent no.2 supported the award passed by the learned Tribunal contending that the evidence has been properly appreciated. He submitted that, in the absence of any distinct evidence regarding income from the business, the Tribunal was justified in determining the compensation. Accordingly, he argued that no infirmity could be found in the award passed by the



learned Tribunal and prayed for dismissal of the appeal for want of merit.

8. Heard. Re-appreciated the evidence on record.

9. There is no dispute that deceased Ajay, husband of Claimant No. 1, was travelling on a motorcycle with his mother-in-law on 31.10.2008 when he met with an accident as a result of a dash given by the S.T. bus bearing No. MH-20-D-9124. A crime was registered against the driver of the said S.T. bus, i.e., Respondent No. 1. The spot panchanama shows that there was absolutely no fault on the part of the deceased Ajay. The S.T. bus came from the wrong side and caused the collision. Therefore, the driver of the S.T. bus was solely and exclusively responsible for the accident.

10. As regards compensation, it is the case of the appellants that the deceased was running a grocery shop and earning Rs.7,000/- per month. However, in the entire evidence adduced by the claimants, there is not an iota of evidence to show that such a business was being conducted or that such income was being earned from the said business. Therefore, the Tribunal was left with no alternative but to



consider the notional income of the deceased. Consequently, no fault can be found with the Tribunal for considering the notional income. However, learned trial Court has not awarded any amount towards future prospects. In view of law laid down by Hon'ble Apex Court in the case of *National Insurance Company Limited v. Pranay Sethi and Others*, (2017) 16 SCC 680, and considering that the deceased was self-employed and taking into account his age at the time of incident, 40% amount of income towards future prospects needs to be granted. The claimants are also entitled for Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.

Apart from this, in view of decision of the Hon'ble Apex Court in the case of *Magma General Insurance v. Nanu Ram @ Chuhru Ram*, 2018 (18) SCC 130, the claimants are entitled for Rs.40,000/- each towards consortium.

The learned Tribunal has considered 1/3rd amount of income towards personal expenses. However, as per law laid down by the Hon'ble Apex Court in *Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another*, (2009) 6 SCC 121, deduction towards personal expenses is required to be taken as 1/4th of the income where the number of dependent family members is four to six. As the number of dependents on deceased is four, the deduction towards



personal expenses is required to be taken as 1/4th.

11. In view of above discussion, the calculation of compensation is as under :

Sr. No.	Particulars (Rs.)	Amount (Rs.)
1	Annual Income = 48,000 (4,000 x 12)	48,000.00
2	Add Future prospects 40% = 19,200	67,200.00
3	Amount after 1/4th deduction towards personal expenses (67,200 – 16,800)	50,400.00
4	Multiplier of 18 (50,400 x 18)	9,07,200.00
5	Non-pecuniary Losses : A) Loss of consortium (40,000 x 4)= Rs.1,60,000 B) Loss of Estate = Rs.15,000 C) Funeral Expenses= Rs.15,000	1,90,000.00
6	Total Compensation to be paid	10,97,200.00
7	Less – Compensation awarded by Tribunal	6,00,000.00
	<b>Total enhanced amount of compensation</b>	<b>4,97,200.00</b>

12. The appellants are entitled for enhanced compensation of Rs.4,97,200/-. Hence, following order is passed :

### ORDER

- (i) First Appeals is partly allowed.
- (ii) Impugned judgment and award dated 21.02.2012 passed by the Chairman, MACT, Ahmednagar in MACP Nos.820 of 2008 stands modified.



- (iii) The original claimants in MACP No.820 of 2008 are entitled for enhanced compensation of Rs.4,97,200/- along with interest @ 7.5% per annum from the date of petition till the date of realization of the amount.
- (iv) Original Respondent no.2/Corporation to pay enhanced compensation amount of Rs.4,97,200/- to original claimants within 12 weeks from today along with interest @ 7.5% per annum from the date of registration of claim petition till its realization.
- (v) Out of the enhanced amount of compensation and interest accrued thereon, 50% amount be paid to the claimant No.1/wife of the deceased, 25% amount be paid to the claimant No.2/daughter of the deceased and 25% of the amount be paid to the parents of the deceased.
- (vi) Rest of the award of the learned Tribunal is maintained.
- (vii) Original Respondent No.2/Corporation to deposit the amount of enhanced compensation along with interest thereon in this Court.
- (viii) On deposit of amount by the Original Respondent No.2/Corporation, original claimants are permitted to withdraw the enhanced compensation amount as well as amount lying in this Court, if any, along with interest accrued thereon, if any.



- (ix) Modified award be prepared accordingly.
- (x) Claimants to pay Court fees on enhanced compensation as per Rules.
- (xi) The Appeal is disposed of in above terms.

[ ABHAY S. WAGHWASE, J. ]

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