

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 255 OF 2021**

Reliance General Insurance Company Limited
Near Employment Chowk,
Railway Line, Solapur.

....Appellant

Versus

1. Pruthviraj S/o. Arunsigh Pardeshi.

Age : 45 years, Occ: Nil,
Residing at Sadepur, Taluka South,
Solapur, District : Solapur.

2. Shrishail s/o. Nagayya Swami

Age : 33 years, Occ: Business,
Residing at 71, Railway Line,
Ramlal Chowk, Solapur.

....Respondents

Mr. Pandit Kasar, Advocate for the Appellant.

Mr. R. S. Alange, Advocate for the Respondent No.1/claimant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th DECEMBER, 2023.

Oral Judgment. :

1. The issue involved in this appeal is the income of claimant is considered on higher side.

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2. It is the contention of learned counsel for the appellant that claimant was doing milk business. In spite of that, the Tribunal has considered his monthly income at Rs.10,000/-. There is no evidence produced on record to show that the claimant was earning Rs.10,000/- per month. Hence, requested to allow the appeal.

3. It is the contention of learned counsel for respondents/ claimants that claimant was doing milk business and he was getting an amount of Rs.25,000/- per month from the said business. Witnesses have been examined to prove the said income but the Tribunal has considered the income of the claimant at Rs.10,000/- per month only. Learned counsel further submitted that the Tribunal has not awarded future prospects. Hence, future prospects be awarded to the claimants.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Solapur (for short "the Tribunal").

5. To prove the income of the claimant, he has examined himself at Exhibit-20. He has stated that he was doing agricultural work and milk business and used to earn Rs.3,00,000/- per annum from agricultural affairs and Rs.25,000/- per month from milk business. In support of his evidence, claimant examined CW-4 – Shrishail Mallinath Swami at Exhibit-37. He has stated that he runs milk business in the name and styleas "Veerbhadreshawar Agency". He supplied milk to customers by collecting it from others. In the year 2016-2017, claimant brought milk to

his agency. This witness was paying monthly Rs.20,000/- to Rs.22,000/- to claimant vide receipts which are at "Exhibit-38 collectively". In cross-examination, this witness admitted that he has not maintained register showing the names of person who would bring milk to his agency and the names of customers. Considering the evidence on record and receipts at Exhibit-38 (collectively), the Tribunal has considered monthly income of the claimants at Rs.10,000/-. I do not find infirmity in it. As admittedly, the claimant was doing milk business and agricultural works.

6. In view of above, I pass the following order :

ORDER

1. The appeal is dismissed. No order as to cost.
 2. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 3. The statutory amount be transmitted to the Tribunal at Solapur along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)