

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.85 OF 2021

Reliance General Insurance
Company Limited,
Thane Division Office,
Kalptaru Prime, 1st Floor,
Unit No.D-3, Road No.16,
Ambika Nagar, Wagle Industrial
Estate, Thane (West), District-
Thane

...Appellant

Versus

1. Hunkar Sakharam Mohite

2. Pavitra Hunkar Mohite
(CA stands abated as against
R.No.2 vide order dated
11/04/2022)

3. Rajashree Hunkar Mohite
age: 40 years, Occ; Housewife,
All residing at Annabhau Sathe
Nagar, Maruti Nagar, Road No.5,
Savarpada, Near Gurkha Chawl,
Borivali (East), Mumbai-400 066.

4. Vijay Mohite
C-20-1-3, Section 16, Nerul, Navi
Mumbai Nerul Node-II, Thane.
(FA stands dismissed as against
Respondent No.4 vide order
dated 15/09/2022)

...Respondents

....

Mr. Pandit Kasar for the Appellant.
Ms Rina Kundu for the Respondents.

CORAM: SHIVKUMAR DIGE, J.

DATE : 11th DECEMBER, 2023.

ORAL JUDGMENT:-

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

2. It is contention of learned counsel for the Appellant-Insurance Company that the Tribunal has considered income of the deceased at Rs.23,000/- per month, without any evidence on record, which is on higher side and on that basis compensation is awarded, which is not proper. Hence, requested to allow the appeal.

3. It is the contention of learned counsel for the Respondents-Claimants that the deceased was working with M/s. Tirupati Enterprises at Vileparle, Mumbai and he was getting salary of Rs.23,000/- per month. To prove income of the deceased the Claimants have examined employee of the Tirupati Enterprises, who has stated that the deceased was getting salary of Rs.23,000/- per month. The salary considered by the Tribunal is proper and no interference is required in it.

4. I have heard both the learned counsel and perused the judgment and award passed by the Motor Accident Claims Tribunal, Thane (for short 'the Tribunal').

5. To prove the income of the deceased, Respondent No.1 examined himself. He has stated that the deceased was his son and he was getting Rs.23,000/- per month. To support his evidence the Claimants have examined Dattaram Tanu Tambe, employee of M/s. Tirupati Enterprises at Exhibit-52. He has stated that the deceased was working in their enterprises since last 10 years as a back office employee and his salary was Rs..23,000/- per month. The salary slips were filed on record. Considering the evidence on record the Tribunal has considered Rs.23,000/- as income of the deceased. I do not find any infirmity in it. Moreover, the Tribunal has not awarded consortium amount. Considering these facts, I pass following order:-

ORDER

(i) The appeal is dismissed. No order as to costs.

(ii) The Respondents -Claimants are permitted to

withdraw deposited amount alongwith
interest accrued thereon.

iii. The statutory amount be transmitted to the
tribunal along with accrued interest thereon.

The parties are at liberty to withdraw it, as
per Rule.

6. Pending interim/civil application (s), if any, stand (s)
disposed of.

(SHIVKUMAR DIGE, J.)