

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 84 OF 2021

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

Versus

- | | | |
|-----------------------------------|---|--|
| 1. Priti Vishwajeet Salwe |) | |
| Age 33 years, Occ: housewife |) | |
| 2. Aditi Vishwajeet Salve |) | |
| Age: 13 years, occ: student |) | |
| 3. Tanishq Vishwajeet Salve |) | |
| Age: 7 years, occ: nil, |) | |
| 4. Vijay Nandaram Salve |) | |
| age: 66 years, occ: retired |) | |
| 5. Pratibha Vijay Salve |) | |
| age: 61 years, occ: housewife, |) | |
| Respondent Nos. 2 and 3 are minor |) | |
| Through mother and natural |) | |
| guardian Respondent No. 1 |) | |
| All residing at Flat No. 202, |) | |
| Satkar Apartment, Plot No. 77/78, |) | |
| Near Sarsole Depot, Sector-6, |) | |
| Navi Mumbai, Nerul Node-3, |) | |
| Thane |) | |

6. Vijay Mohite)
C-20-1-3, Sector 16,)
Nerul, Navi Mumbai,)
Nerul Node-II, Thane)Respondents

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

CORAM : S. G. DIGE, J.

DATE : 24th FEBRUARY 2023.

JUDGMENT :

1. The issue involved in this appeal is income of deceased considered on higher side.
2. It is contention of learned counsel for the appellant that the tribunal has considered salary of deceased at Rs. 16,000/- per month without any evidence on record.
3. The learned counsel further submits that the witness who was examined to prove the salary of deceased has stated that when the deceased was in service this witness was not in service. It shows that the salary documents produced by the claimants were false and fabricated but this fact is not considered by the tribunal. Hence, requested to allow the appeal.

4. It is contention of learned counsel for respondent that the claimants have examined Pramod Krishna Niwas who was working in Mindpool Management Solution Private Limited as HR Manager to prove the income of deceased, he has stated that deceased was serving in their company. This witness produced the salary extract of deceased along with appointment letter, these documents are not disputed by the appellant before the Tribunal. Deceased was getting salary of Rs. 18,250/-, but after considering oral and documentary evidence the Tribunal has considered income of deceased at Rs. 16,000/-. Hence, requested to dismiss the appeal.

5. I have heard both learned counsel, perused judgment and order passed by the Motor Accident Claims Tribunal (for short 'the Tribunal'). To prove the income of deceased. Claimants have examined, claimants no. 1 Priti Salve, she has stated that her husband was getting salary of Rs. 18,250/- per month his annual income was Rs. 4,19,000/-, To support evidence of this witness, the claimants have examined Pramod Krishna Niwas, H.R. Manager of Mindpool Management Solution Pvt. Ltd. He has stated that deceased was working in their company since 1 November, 2015 and his salary was Rs. 18,250/- per month. The appointment letter is at Exhibit-53

salary breakup and extract of payment register of deceased are at Exhibit-54 and 55. In cross-examination this witness has admitted that, he was not working in the company at the time when deceased was working. This witness denied the suggestion given to him that, he does not have personal knowledge about the facts mentioned in the affidavit of examination in chief and he deposing falsely. From the evidence of this witness it reveals that at the time of accident deceased was getting salary more than Rs. 18,000/-. The salary breakup and appointment letter shows that he was permanent employee in the said company. Mere giving the admission by the witness that he was not working with the company at the time when deceased was working, cannot be a ground to disbelieve the evidence of this witness. As this witness has specifically denied that he is deposing falsely to support the claimants and he has no personal knowledge about the facts mentioned in the affidavit in examination in chief. Moreover, no suggestion was given to this witness that the documents produced by him are false and fabricated. When the claimants no.1 wife of deceased has stated that her husband was working in the company and he was getting salary more than Rs. 18,000/- per month and the manager of company support her

contention. Hence, I do not find any infirmity in it.

6. In view of above, Appeal is devoid of merit and I pass following order.

ORDER

- i. Appeal is dismissed. No order as to cost.
 - ii. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. The statutory amount be transmitted to the tribunal along with accrued interest thereon. Parties are at liberty to withdraw it as per Rule.
6. All pending application stands disposed of.

(S. G. DIGE, J.)