IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.732 OF 2023

	Reliance General Insurance Company Ltd having their Thane Office, Kalpataru Prime, 1st Floor, Unit No.3, Road No.16, Wagale Industrial Estate, Thane (West) 400604 (Insurer of Motor Tempo No. Mh-48-Ag-1975) Policy No.110219233400022 82 From 12/01/2019 to 11/01/2020		...Appellant
	Versus		
1	Priyanka Rohit Singh Aged 27 years, Occ-Housewife (Widow of Deceased)		
2	Danish Rohit Singh Aged 05 years, Occu-Student Minor Son of the Deceased		
3	Gauri Sushil Singh Aged 55 years, Occu – Nil (Mother of the Deceased) (Applicant No.2 being Minor is applying through his next friend and natural Guardian i.e. Mother Applicant No.1) Both the applicants residing at Flat No.B/6-2, Ritu Horizon, Mira Bhayander Road, Near MCDonald Mira Road East, Mira-Bhayander, Thane 401107.		Original Applicants.
4.	M/s. Al.Zubair Exporter Prop-Moh Umar Nagami Address House No.219, A/P-Sakhare Palghar, Palghar H.O., Thane 401404. (Owner of Motor Tempo No. MH-48-AG-1795)		Respondents

Ms. Shalini Shankar, Advocate for the Appellant.
Mr. S. M. Mangaonkar, Advocate for Respondents/claimants.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th DECEMBER, 2023.

Oral Judgment. :

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

2. It is contention of learned counsel for the appellant that deceased was 32 year old. He was doing business of pick-up and delivery partner for Bundl Technology Private Limited. The Tribunal has considered the monthly income of deceased at Rs.27761/- per month which is on the higher side and on that basis, compensation is awarded. Learned counsel further submitted that no evidence was produced on record to show that deceased was earning Rs.27761/- p.m.. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondents/claimants that deceased was doing business of pick-up and delivery partner with Bundl Technology Private Limited (Swiggy) and was earning Rs.37607/- per month. He was paying income-tax. Income Tax Officer was examined to prove the income of the deceased. Considering the evidence on record and after deducting the income-tax, the Tribunal has considered the income of deceased, which is proper and no interference is required in it.

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

5. To prove the income of deceased, claimant No.1- Priyanka has examined herself. She has stated that her husband was doing business and he was getting monthly income of Rs.37,607/- and he was filing Income Tax Returns. To prove the evidence of PW-1, claimants examined PW-2 Amol Dange, Senior Operational Manager in Bundl Technology Private Limited (Swiggy). He has stated that deceased was working with their company and in the month of December 2018, company made payment of Rs.37607/- to deceased. Nothing elicited in cross-examination of this witness. PW-3 Dharamvir Paswan, Income-Tax Officer has stated that Income Tax Returns of deceased show that income of the deceased for the Year 2018-2019 was Rs.377626/-, for the year 2019-2020, the income of the deceased was Rs.2,99,267/-. Considering the evidence on record and after deducting income-tax, the Tribunal has considered monthly income of deceased at Rs.27761/-. I do not find any infirmity in it.

6. Considering the above reasons, I pass following order :

O R D E R

1. The appeal is dismissed. No order as to cost.
2. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

3. The statutory amount be transferred to the Tribunal 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.)