

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1196 of 2022

Reliance General Insurance Co. Ltd.,	]	
4 th Floor, Chintamani Avenue,	]	
Opp. Western Express Highway,	]	
Next to Virwani Industrial Estate,	]	
Goregaon (E), Mumbai-400 063.	]	Appellant

Versus

- | | | | |
|----------|---|-----------------------|--|
| 1 | Ramnath Giraja Tiwari
Aged 48 years,
R/at : Near H.P. Colony, Bharat Nagar,
Mahul Road, Vashinaka, Chembur,
Mumbai-400 074. |]
]
]
]
] |

...Original
Applicant |
| 2 | M/s.Khan Crane Services
C/o.Asian Crane Service, G/11. Complex
Sonale Bypass, Bhiwandi Highway,
Dandekar Wadi, Thane (W)-421 302
(Owner of Crane No.MH-04-DT-0612) |]
]
]
]
] |

Original
Opponent Party)

Respondents |

Ms.Shalini Shankar, Advocate for the Appellant.

Ms.Yashika Jain i/b Mr.Jitendra Gor, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th DECEMBER, 2023.

ORAL JUDGMENT :

1. The issue involved in this appeal is monthly income of claimant is considered on higher side.
2. It is the contention of learned counsel for the appellant that the Tribunal has considered the income of claimant at Rs.12,756/- 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 respondent No.1-claimant that claimant was working as security guard with HPCL and was earning salary of Rs.12,756/- per month. The claimant has examined the witness in support of his evidence. On the basis of evidence on record, the Tribunal has considered the monthly salary of the claimant, which is proper. No interference is required in it.

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

5. To prove the income of the claimant - Ramnath, he has examined himself at 'Exhibit-17'. He has stated that he was working as security guard with HPCL and he was getting salary of Rs.19,309/- per month. Nothing elicited in his cross-examination. To prove his income, the claimant has examined AW-2 – Pramod V. Sawant, Inspector Security Guard Board for Mumbai and Thane. He has stated that the claimant was working as security guard since last 15 to 16 years. He was deputed with HPCL, Mumbai. His salary for the month of March – 2015 was Rs.12,756/-. The copies of Wages Register and Attendance Register are at "Exhibits-34 & 39". He has stated that on the date of his examination before the Court in the year 2021, the salary of security guard was

Rs.19,309/- p.m.. Considering the evidence on record and salary record of claimant at "Exhibit-34 to 39", the Tribunal has considered the salary of the claimant at Rs.12,756/-. I do not find any infirmity in it.

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

O R D E R

1. The appeal is dismissed. No order as to cost.
 2. Respondent No.1-claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 3. The statutory amount be transmitted 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.)