

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****FIRST APPEAL NO.1734 OF 2019**

Reliance General Insurance Co. Ltd.
4th Floor, Chintamani Avenue, Off. Western Exp.
Highway, Next to Virwani Indl. Estate,
Goregaon (E), Mumbai-400063
INS.Policy No. 11057233340001145
Valid From 14/02/2014 to 13/02/2015

.... Appellant

Versus

1. Kushvinder Kaur Harvinder Singh Arora
Aged 54 year (Mother of deceased)
R/at : Row House No.63, Hill Garden CHS
Near Tikujini Wadi, Chilar Manpada,
Thane (W) – 400607
2. Raman Kumar Khosla
(Regd. Owner of M/Tanker No.MH-43-U-4217)
D-184, Cargo Park, TTC Indl. Area, Behind LP
Factory, Near Nerul Thane, Navi Mumbai-400706
3. Mohd. Salman Hamid Ali
Driver of M/Tanker No.MH43-U-4217
Prayag Nagar Society, L.U.Gadkari Marg,
Chembur, Mumbai-400074

.... Respondents

.....

Ms. Shalini Shankar, Advocate for the Appellant.
Ms. Varsha Chavan, Advocate for Respondents

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th DECEMBER, 2023

JUDGMENT :

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

2. It is the contention of learned counsel for appellant that the Tribunal has considered monthly income of deceased at Rs.25,000/- and on that basis the compensation is awarded which is on higher side. No evidence was produced on record to prove the monthly income of deceased of at Rs.25,000/- but it was considered, hence requested to allow the appeal.

3. It is the contention of learned counsel for respondent-claimant that deceased was working with Convergys India Services Pvt. Ltd. and was earning salary of Rs.25,000/- per month. On that basis the Tribunal has considered his monthly income of Rs.25,000/- which is proper and no interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Mumbai (for short "**the Tribunal**"). To prove the income of deceased the Tribunal has examined mother of deceased herself at Exhibit-20, she has stated that deceased was working as a Senior Customer Care Officer with Convergys India Services Pvt. Ltd. and was earning Rs.3,76,000/- per annum. She further stated that the income tax returns of the deceased for the year 2013-14 was filed. Nothing elicited in her cross examination. To support the evidence of PW-1 claimant examined Abhishek Khopkar at Exhibit-30, Coordinator HR business partner in Convergys India Services Pvt. Ltd., he

has stated that deceased was working as a Senior Customer Care Officer on annual package of Rs.2,52,000/- to Rs.2,76,000/-. Nothing elicited in his cross examination to disbelieve the evidence of this witness. Considering the evidence on record the Tribunal has considered the monthly income of deceased at Rs.25,000/- per month. I do not find any infirmity in it.

5. In view of above, I pass following order:

- i. The appeal is dismissed.
- ii. Respondent No.1-Claimant is permitted to withdraw the amount deposited by the appellant along with accrued interest thereon.
- iii. The statutory amount along with accrued interest be transferred to Motor Accident Claim Tribunal, Mumbai.
- iv. The parties are at liberty to withdraw it as per rule.

6. The appeal is disposed off. All pending Interim Applications are also disposed off.

7. Compilation of documents is taken on record.