

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO.1151 OF 2019**

|                                                      |   |                      |
|------------------------------------------------------|---|----------------------|
| <b>Reliance General Insurance Co. Ltd.</b>           | } |                      |
| 4 <sup>th</sup> Floor, Chintamani Avenue Off Western | } |                      |
| Express High Way, Next to Virwani                    | } |                      |
| Industrial Estate, Goregoan (E),                     | } |                      |
| Mumbai-400063                                        | } | <b>....Appellant</b> |

V/s.

|                                         |   |                        |
|-----------------------------------------|---|------------------------|
| 1. <b>Shri.Jitendra Gopal More</b>      | } |                        |
| R/o. Konjar Tal Mahad, District-Raigad. | } |                        |
|                                         | } |                        |
| 2. <b>Subhash N. Gugale</b>             | } |                        |
| R/o Nilhun, Post Bamnoli, Taluka-       | } | <b>....Respondents</b> |
| Mangaon, District-Raigad.               | } |                        |

NILAM  
SANTOSH  
KAMBLE

Digitally signed by  
NILAM SANTOSH  
KAMBLE  
Date: 2023.12.08  
10:06:32 +0530

----

Ms.Poonam Mital, for the Appellant.

Mr.Aniket Nangare i/b Mr.N.V. Bhutekar, for Respondent Nos.1 and 2.

----

**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 1<sup>st</sup> DECEMBER 2023**

**JUDGMENT :-**

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

2. It is contention of the learned counsel for the Appellant that, the Appellant is agriculturist inspite of that, the

Tribunal has considered his monthly income Rs.5,000/- per month which is on higher side, on that basis compensation is awarded, which is improper. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimants that, the deceased was agriculturalist. His land was fertile land and he was getting monthly income from the said land. Due to accident Claimant has suffered 50% permanent disability. Due to said disability he is unable to do any work. There is 100% disability caused to the Claimant. After the accident he is unable to do his agricultural work. But the Tribunal has not considered this fact. His leg was shortened by two inch. The order passed by the Tribunal is legal and valid and no interference is required in it. Hence, requested to dismiss the Appeal.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Mangaon, Raigad.

5. To prove the income of the Claimant, the Claimant

has examined himself and he has stated that, he was doing agricultural work and he was getting Rs.5,000/- per month as income. The Tribunal has observed that, there is no reason to disbelieve his evidence regarding income, as he was agriculturalist. Moreover, it appears from the record that, at the time of the accident Applicant was 24 years old and he has got 50% disability. Due to accident he is unable to do agricultural work. The Tribunal has considered only 50% disability, not 100% functional disability. Considering these facts, the income considered by the Tribunal is proper and I pass following order.

### **ORDER**

- (i) The Appeal is dismissed.
- (ii) The Respondents/Claimants are permitted to withdraw amount deposited by the Appellant-Insurance Company along with accrued interest.
- (iii) The statutory amount of Rs.25,000/- be transferred to the Tribunal. The parties are at liberty to withdraw it as per Rules.
- (iv) All pending Civil and Interim Applications are disposed of.

**(SHIVKUMAR DIGE, J.)**