

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1737 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. Kalpana Ajit Parab

Aged about 29 years (widow of the deceased)

2. Sunita Parshuram Parab

Aged about 75 years (Mother of the deceased)

3. Pratyush Ajit Parab

Aged about 3 years (Minor son of the deceased)

Applicant No.3 is a minor-through his mother and next friend Indian Inhabitant and residing at G-3/211, Malhar Society, Lok Puram, Thane (W), Off. Pokhran Road No.2, Thane - 400601

4. 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

5. 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 the 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 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 at Rs.25,000/- per month. On that basis the Tribunal has considered his monthly income at 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 claimants have examined claimant No.1 Kalpana Parab, wife of deceased at Exhibit-22, she has stated that deceased was working as a Senior Customer Care Officer with Convergys India Services Pvt. Ltd. and was earning Rs.3,00,000/- per annum. She further stated that since deceased was not

in the tax bracket no tax was deducted from his salary. Nothing elicited in her cross examination. To support the evidence of PW-1 claimants have examined Abhishek Khopkar (Exh.34), 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.3,63,454/-. 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 the above, I pass following order:

- i. The appeal is dismissed.
- ii. Respondent Nos.1 to 3- claimants are 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.