

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.9278 OF 2024
IN
FIRST APPEAL NO.894 OF 2022

Jyoti Pankaj Nikode & Ors. Applicants

V/s.

Reliance General Insurance Co. Ltd. Respondent

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Mr.V.S. Talkute, for the Applicants.

Mr.Pandit Kasar, for the Appellant in FA.

Ms.Sulajja Patil i/b Mr.Uday Nigot, for Respondent No.7.

CORAM : ARUN R. PEDNEKER, J.

DATE : 23rd JULY 2024

P.C:-

. Heard learned counsel for the parties.

2. The present Appeal is filed by the Insurance Company on the ground that, the driver of the insured vehicle was not holding valid driving licenses and there was contributory negligence and that the Tribunal has considered income of the deceased at Rs.9,000/- p.m. on the highest side. However, at paragraph No.13 the Respondent arguments are limited to the

income are as under:-

“13. During arguments learned advocate for respondent No.2 has submitted that the mutton shop of the deceased is situated in prime location of Satara city and the business was going on in well manner. He has further submitted that the claim of his earning at the rate of Rs.2000/- per day is quite reasonable and genuine. He has further submitted that he has no objection to award compensation by considering his daily income of Rs.2000/-. He has further fairly submitted that on the contrary by adding 10% in the figure of Rs.2000/- compensation be calculated and awarded.”

3. The Original Respondent No.2 i.e. the present Appellant has admitted before the Tribunal that the Claimant was earning Rs.2,000/- per day. However, the Tribunal has ultimately granted Rs.9,000/- per month, as the deceased was running a mutton shop and that he has produced evidence, which is discussed at paragraph No.19 of the judgment.

4. On admission, this matter will take substantial time to be listed for hearing. As such, I permit the major Applicants/Claimants to withdraw 65% amount granted by the Tribunal in the proportion mentioned in the order of the Tribunal. The amount of 65% would be inclusive of 25% already

withdrawn. The withdrawal is subject to an undertaking to the satisfaction of the Presiding Officer of the MACP, Court.

5. The share of minor would remain in the Fixed Deposit in the nationalized bank.

6. Appeal is Admitted.

7. On admission Mr.V.S. Talkute, waives notice for Respondents.

8. Call Record and Proceedings.

(ARUN R. PEDNEKER, J.)