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

FIRST APPEAL NO. 929 OF 2023

Reliance General Company,)
Reliance Centre, Walchand Hirachand)
Marg, Balard Estate, Mumbai)….Appellant

Versus

1. Bapu Jagannath Sakat)
Aged: 55 years, Occ: Agriculture)

2. Vandana Bapu Sakat)
Age: 50 years, Occ: Agriculture)

3. Sushma Nitin Sakat)
Age: 19 years, Occ: Agriculture)

All R/o. Vijaywadi, Tal: Malshiras)
Dist: Solapur)….Org.Applicants

4. Santosh Nana Sawant)
Age: 30 years, Occ: Agri & Driver)
R/o. 191 – A Zashi, Palashi Galli)
Gondwale, Tal. Man, Dist. Satara)

5. Vijay Premji Sawala)
R/O/204, Sawan Bhawan)
ABMGS MARG, Mumbai)
(Name Deleted As per)
Order vide Exh. No.24))….Respondents

(Resp. Nos. 1 to 3 are Org. Applicants & Res. No.4 & 5 are Orig. Opp. Party)

Ms. Shalini Shankar, Advocate for the Appellant.
Ms. Manisha Devkar, Advocate for the Respondent Nos. 1 to 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd FEBRUARY, 2024.

Oral Judgment. :

1. The issues involved in this appeal are, at the time of accident deceased was not holding effective and valid driving licenece. The income of deceased is considered on higher side.

2. It is contention of learned counsel for the Appellant/Insurance Company that deceased was driver. No evidence

was produced on record to prove his monthly income but the Tribunal has considered monthly income at Rs.7,500/- per month, which is on higher side. Learned counsel further submitted that at the time of accident deceased was not holding effective and valid driving licence. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondents/Claimants that at the time of accident deceased was holding valid and effective driving licence. Learned counsel further submitted that deceased was working as driver on tractor of witness Santosh and he was paying him of Rs.9,000/- per month. The salary of deceased considered at Rs.7,500/- per month by the Tribunal is proper. The judgment and order passed by the Tribunal is legal and valid and no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Malshiras (for short “the Tribunal”).

5. To prove the income of deceased, the Claimants have

examined PW-1 Bapu Sakat at Exhibit-27, he has stated that deceased was working with Santosh Ingale as a driver and he was paying him Rs.9,000/- per month. In support of the evidence of PW-1 Claimants have examined PW-2 Santosh, he has stated that deceased was working as a driver on his tractor and he was paying Salary of Rs.9,000/- per month. Considering evidence on record, the Tribunal has considered monthly income of deceased at Rs.7,500/- per month. I do not find infirmity in it. In my view, deceased was skilled worker and he was driver, the PW-2 has stated that deceased was working with him and he was paying Rs.9,000/- per month as a salary but, the Tribunal has considered Rs.7,500/- per month, which is proper. In respect of issue of licence of the deceased, the claimants have produced the licence of deceased, which is at Exhibit-15. It shows that at the time of accident deceased was holding effective and valid driving licence. The tribunal has awarded Rs.70,000/- as consortium amount it is on lower side. As per the view of Hon'ble Apex Court in the case of ***Magma General Insurance Co.Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC),*** each claimant is entitled for Rs.48,000/- for consortium amount and Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. There are three claimants, it comes to

Rs.1,44,000/-. If this amount deducts from the amount considered by the Tribunal i.e. 70,000/-, it comes to Rs.84,000/-. The claimants are entitled for enhanced amount of Rs.84,000/-.

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

ORDER

i. Appeal is dismissed.

ii. The claimants are permitted to withdraw the deposited amount along with a accrued interest thereon.

iii. The Respondent/Insurance Company shall deposit the enhanced amount along with accrued interest thereon.

iv. 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. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)