

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 197 OF 2023

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1. Reliance General Insurance Company LimitedAppellant
The Divisional Manager, Mumbai Divisional Office,
4th Floor, Chintaman Avenue Near Vivani Industrial
Estate, Eastern Express Highway, Goregaon (E)
Mumbai – 400 063

Versus

1. Mr. Surjit Kumar Bikramjit BhinderRespondent
Aged about 42 years, w/o deceased
Nos. 1 to 4 are
the Org
Applicant.

2. Amandeep Singh Bikramjit Bhinder
Aged 20 years, Son of deceased

3. Kashmir Singh Narayan Singh Bhinder
aged 70 years, father of deceased

4. Gurneet Kaur Kashmir Singh Bhinder
Aged about 68 years, Mother of deceased

All above r/at Room No. 4, Akash Ganga society,
Kishan Kashmiri Chawl, Parksite, Vikhroli (W)

5. Mr. Nurul Huda Abdul Rehman Khan, Org.
Room No. 408, 4th Floor, Bilabaug Building, Almas Respondent No.
Colony, Kausa, Mumbra Dist.Thane. 1
... Respondents.

Smt. Kalpana R. Trivedi, Advocate for the Appellant.
Smt. Rina Kundu, Advocate for the Respondent Nos. 1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 17th JANUARY, 2024.

ORAL JUDGMENT. :

1. The issue involved in this appeal is income of deceased is considered on higher side.
2. It is contention of learned Counsel for Appellant that the Tribunal has considered monthly income of deceased at Rs. 24,397/- without any evidence on record, which is not proper and on that basis compensation is allowed, which is erroneous. Learned Counsel further submitted that the Tribunal has applied wrong multiplier of 15, it should be 14. Hence, requested to allow the appeal.
3. It is contention of learned Counsel for the Respondents/ Claimants, that the deceased was working as OPS Manager in Modern Protection and Investigation Pvt. Ltd. The witness was examined to prove the income of deceased, salary slips of the deceased were filed on record. The income considered by the Tribunal is proper. Learned Counsel further submitted that the Tribunal has deducted 1/3rd amount for personal expenses, it should be 1/4th as there are 4 Claimants.

4. I have heard both learned Counsels, perused the judgment and order passed by the Motor Accidents Claim Tribunal, Thane, (for short “the Tribunal”).

5. To prove the income of deceased, the Claimant's have examined. The Claimant No. 2 Amandeep Singh, he has stated that deceased was working as OPS Manager in Modern Protection and Investigation Pvt. Ltd and he was getting salary of Rs. 23,610/- per month, nothing elicited in his cross examination. In support of their case, the Claimant's have examined Bhanupratap Mishra, H.R. Officer in Modern Protection and Investigation Pvt. Ltd. He has stated that deceased Vikramjeet Singh was serving in their company as a Manager Operation. He had joined his company in year 2012. He produced salary slips of August, September and October of 2014 of the deceased, it is at Exhibit 38, collectively. These salary slips shows that the salary of deceased in the month of September 2014 to October 2014 were of Rs. 24,397/- on that basis the Tribunal has considered the monthly salary of deceased at Rs. 24,397/-.

6. In my view, while considering the salary of deceased the Tribunal has not deducted professional tax of Rs. 200/- if professional tax of Rs. 200/- is deducted from the salary, it come to Rs. 24,197/-. I

am considering this income as monthly income of deceased. At the time of accident the deceased was 43 years old. The proper multiplier is 14 but the Tribunal has applied 15. Hence, I am considering multiplier of 14. The Tribunal has deducted 1/3rd amount for personal expenses. There are 4 Claimants it should be 1/4th. The Tribunal has awarded consortium amount on lower side. As per the view of the 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. 44,000/- as consortium amount and Rs. 16,500/- for loss of estate and Rs. 16,500/- for funeral expenses.

Considering the above calculations, the Claimants are entitled for following compensation.

Monthly income	Rs. 24,197/-
Add 30 % future prospects	Rs. 7259/-
Total income	Rs. 31,456/-
Less towards personal expenses 1/4th	Rs. 23,592/-
Annual income Rs. 23,592 x 12	Rs. 2,83,104/-
Rs.2,83,104 x 14 Multiplier	Rs. 39,63,456/-
Consortium amount 44,000 x 4 (Claimants)	Rs. 1,76,000/-
Loss of Estate	Rs. 16,500/-
Funeral expenses	Rs. 16,500/-
Total Compensation	Rs. 41,72,456/-
Less amount awarded by the Tribunal	Rs. 38,44,700/-

Enhanced amount	Rs. 3,27,756/-
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7. In view of above, I pass following Order.

ORDER

- a) Appeal is partly allowed.
 - b) The Claimants are entitled for enhanced amount Rs. 3,27,756/- @ 7.5 interest per annum from the date of filing Claim Petition till the realisation of the amount.
 - c) The Appellant/Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within six weeks after receipt of the order.
 - d) The statutory amount be transferred to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
8. All pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)