

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****FIRST APPEAL NO. 955 OF 2022**

Reliance General Insurance Company Ltd.
570, Rectifier House, Naigaum Cross Road Next to
Royal Industrial Estate, Wadala (W), Mumbai – 31 ... Appellant

Versus

- 1 Mr. Rameshwar Dattarao Warkad
Aged 25 years, Occu – Service
R/o. Kadav, Ganegaon, Nasrapur Road, Joshi Farm,
Karjat, Tal. Karjat, District Raigad
- 2 Gurpreet Singh Saini
Age – 50 Years, Occu-Transport
R/o. 303, 3rd Floor, Sai Mahima, Sector No. 19/24,
Gharbsarve Chowk, Nerul, New Bombay ... Respondent

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Ms. Shalini Shankar, Advocate for the Appellant.
None for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 10th APRIL, 2024

ORAL JUDGMENT :

1. The issue involved in this appeal is income of claimant is considered on higher side.
2. It is contention of learned counsel for the appellant/Insurance Company that the Tribunal has considered monthly income of the claimant at Rs.6,000/- per month which is on higher side. No evidence is produced on record to prove the income of the claimant, hence requested to allow the appeal.

3. Though respondent served none present for the respondent hence I am deciding this appeal on merit.

4. To prove the income of the claimant, the claimant has examined himself. He has stated that at the time of accident he was working as a labour on the firm of Shivshakti Bio Plant Tech Ltd., Aurangabad. He used to do gardening work and was getting salary of Rs.8,000/- per month. While dealing with the issue of income, the Tribunal has observed that due to accidental injuries the claimant has suffered 21% permanent physical disability. After the accident he has been removed from the service as he was unable to do heavy work and he cannot climb on the tree. Considering the evidence on record the Tribunal has considered Rs.6,000/- per month as the income of the claimant. I do not find infirmity in it. In my view, the claimant was labour, he has suffered 21% permanent physical disability. Due to accidental injuries he has been removed from the service. The income considered by the Tribunal at Rs.6,000/- per month is proper. In view of above, I pass following order.

ORDER

- i. The appeal is dismissed.
- ii. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

- iii. The statutory amount along with accrued interest thereon be transmitted to the Tribunal. Parties are at liberty to withdraw it as per Rule.
- iv. All pending applications stand disposed of.

(SHIVKUMAR DIGE, J.)

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