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

FIRST APPEAL NO. 1197 OF 2022

Reliance General Insurance Company,	)
Ltd. Having Their Office at Chintamani	)
Avenue, 4th Floor, Akurli Road, Off	)
Western Express Highway, Near	)
Virwani Industrialjj Estate, Goregaon	)
(East), Mumbai.	)….Appellant

Versus

1. Ganesh Gokuldas Karade	)
Age: 28 years, Son of the Deceased	)
2. Pandurang Tatoba Karade	)
Age: 75 years, Father of the Deceased	)
3. Bhimabai Pandurang Karade	)
Age: 65 years, Mother of the Deceased	)
All the above Applicants are at present	)
Residing at 202, B Wingh, Hariom	)
Apartment, Plot No.9, Sector-9	)
Khanda Colony, Tal-Panvel	)
District: Raigad	)….Original Applicants

4. Devendra M. Adiwarekar)
Having His Address At Arihant)
Compound, Bldg. No.19, Gala No.2)
Purna Village, Tal-Bhiwandi)
District-Thane-421308)....Respondents
(Owner of the Vehicle No. MH-04-FK-3989)

Ms. Shalini Shankar, Advocate for the Appellant.
Mr. Niketan Nakhawa, Advocate for the Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd APRIL, 2024.

Oral Judgment. :

1. The issue involved in this Appeal is deduction of allowances from salary.

2. It is contention of learned counsel for the Appellant/Insurance Company that Tribunal has considered annual income of the deceased at Rs.8,22,963/-, and after deduction, it is considered as Rs.7,50,507/-. The Tribunal has not deducted Transport Allowances, Washing Allowances, Minimum Wages Allowances, Port Allowances, H.R.A. Allowances. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the

Respondents/Claimants that Tribunal has considered the yearly income of the deceased after deducting all these allowances. As the gross income of the deceased was Rs.8,22,963/- and after deducting all these allowances the Tribunal has considered at Rs.7,50,507/-. Moreover, the Tribunal has not awarded consortium amount. Hence, requested to dismiss the Appeal.

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

5. While dealing with the issue of income of the deceased, in para 15 and 16 of the judgment, the Tribunal has observed that the Income Tax Returns filed on record shows that the gross salary of the deceased was at Rs.8,22,963/- and after deducting Professional Tax and Income Tax and Allowances, the Tribunal has considered annual income of the deceased at Rs.7,50,507/-. In my view, the Tribunal has already deducted allowances raised by the learned counsel for the Appellant. Moreover, as per the view of Hon’ble Apex Court in the case of ***Fakir Chand Taneja and Ors. Oriental Insurance Co. Ltd. & Ors. 2023 ACJ 338,*** all allowances except Income Tax and Professional Tax can be considered as income of the deceased.

6. Considering above reasons, the Appeal is devoid of merit and I pass following order.

ORDER

i. Appeal is dismissed.

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

iii. 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 stand disposed of.

(SHIVKUMAR DIGE, J.)