

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 14 OF 2017

Reliance General Ins. Co. Ltd.]Appellant
 2nd Floor, XLNC Chambers, Opp. IDBI Bank,] (Orig. Insurer)
 Sion-Trombay Road, Chembur, Mumbai-400 071]

Versus

1. Poonam Parmender Malik]
 Age : 25 years, Widow of the deceased]
 2. Sourav Parmender Malik]
 Age : 3 years, Minor son of the deceased]
 3. Gaurav Parmender Malik]
 Age : 2 years, Minor son of the deceased]
 4. Krishna Randhir Singh]
 Aged : 55 years, Mother of the deceased]
 All residing at Are Colony,]
 Nandusingh Ka Tabela, Unit No.5,]
 Goregaon (E), Mumbai-65] Org. Appl.
 5. Kishore Kumar Sharma]
 Sharma House, 03, Purva CHS. Chankya Chowk,] Org. Opp. Party
 Virat Nagar, Virat (W), Thane, Mumbai-401 303.]
 (Owner of the Vehicle No. MH-04-DE-571)]
Respondents

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 Ms. Shalini Shankar, Advocate for the Appellant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 10th JANUARY, 2024.JUDGMENT :

1. The issue involved in this appeal is income of deceased is considered on higher side.

2. It is the contention of learned counsel for the appellant that the Tribunal has considered monthly income of deceased at Rs.5,000/- without any evidence on record and on that basis the Tribunal has awarded compensation which is on higher side. Hence, requested to allow the appeal.

3. Though respondents are served none present for respondents. The appeal is of year 2017, hence I am deciding this appeal on merits.

4. I have heard learned counsel for the appellant. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Mumbai (for short “**the Tribunal**”). It is claimants’ case that the deceased was doing the business of selling and purchasing of fishes and he was earning at Rs.5,000/- per month. To prove the income of deceased the claimants have examined claimant No.1 Poonam Malik, she has stated that deceased was doing business of purchasing and selling of fishes. From the evidence on record it proves that the deceased was earning more than Rs.5,000/- per month and on that basis the Tribunal has considered income of deceased at Rs.5,000/- per month. I do not find infirmity in it. In my view, deceased was selling and purchasing fishes and he was maintaining family of four persons, hence I do not see merit in contention that income of deceased considered on higher side. The appeal is devoid of merit and I pass following order :

ORDER

- (i) The appeal is dismissed. No order as to costs.
- (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.

5. The appeal is disposed of. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)

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