

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

FIRST APPEAL NO. 1102 OF 2018

Reliance General Insurance)
Company Limited)
Thane Office, Ground Floor,)
Malhar Cinema Building,)
Naupada, Thane)
(Insurer of Tempo bearing No.)
MH-04-EY-1231))

....Insurer
....Appellant

Versus

1. Vaishali Dadarao @ Nitin Bote)
Age: 21 years, Occ: Housewife,)
(Widow of the deceased))

2. Master Rohan Dadarao @ Nitin Bote)
Age: 9 years, Occ: Nil,)
(Minor son of the deceased))

3. Lahanubai Anna Bote,)
Age: 45 years, Occ: Housewife,)
(Mother of deceased))

(As Applicant No.2 is being minor,)
he is appearing through his Mother)
i.e. Applicant No.1))

All are R/o. Banjaranagar, Sathenagar,)
Narpoli, Bhiwandi, Dist. Thane)

....Orig. Applicants

4. Haroon H. Anshari,)
R/at – Hindustan Bakery,)
Gala No. 70, Mahim Road – 70,)
Palghar (W).)

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(Owner of Tempo bearing No.)
MH-04-EY-1231)Respondent

Ms. Shalini Shankar, Advocate for the Appellant.
None present for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th 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 the Appellant that the Tribunal has considered monthly income of deceased at Rs.10,000/-, which is on higher side. Hence, requested to allow the Appeal.
3. Though the Respondents are served, none present for the Respondents. The Appeal is of year 2018 hence, I am deciding this appeal on merits.
4. I have heard learned counsel for the Appellant. Perused judgment and order passed by the Motor Accident Claims Tribunal, Thane (for short “the Tribunal”)
5. To prove the income of deceased, the Claimants have

examined Arvind Patil (CW-2), he has stated that deceased was doing service with him as a driver till his death, and getting monthly salary at Rs.10,000/- per month. The salary certificate is at Exhibit-35. Considering evidence on record the tribunal has considered monthly income of deceased at Rs.10,000/- per month. I do not find any infirmity in it. In my view, deceased was driver, he was skilled person. The PW-2 has stated that he was paying Rs.10,000/- as monthly salary. The income considered by the tribunal is proper. The appeal is of devoid of merit and, I pass following order:

ORDER

- i. 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.

(SHIVKUMAR DIGE, J.)