

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

FIRST APPEAL NO.160 OF 2023

Shriram General Insurance Co. Ltd, } 601, 6th Floor, 'B' Wing, Raunak Arcade, } Opp, Hospital, Gokhale Road, Naupada, } Thane (West)-400 602 }	...Appellant
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Versus

1. Jinat Mohamad Imran Shaikh } Age-31 years } 2. Master Araslan Mohamad Imran Shaikh, } Ag-11 years, } Since the Respondent No.1 is minor, Thr. } His next friend and mother Mrs.Jinat } Mohammad Imran Shaikh } Both R/at Mehboob Chawl Committee, } Khar Pipe Line, Khar (W), } Mumbai-400 052 } 3. Sayyed Riyazali Liyakatali } R/at Manyarwada, Post-Nisirabad, Taluka & } District-Jalgaon }	...Respondents
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Mr.Pandit Karar, for the Appellant.
Ms.Rina Kundu, for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th JANUARY 2024

ORAL JUDGMENT :-

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

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2. It is contention of the learned counsel for the Appellant that, the Tribunal has considered monthly income of deceased at Rs.12,000/- per month. The deceased was doing mason work. There was no evidence on record to prove the income of deceased. But Tribunal has considered monthly income of deceased at Rs.12,000/- per month, which is on higher side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, the deceased was doing mason work. He was earning Rs.16,500/- per month. As per Minimum Wages Act, the minimum wages for the mason work for per day was Rs.637/- and it would come to more than Rs.12,000/- per month. The income considered by the Tribunal is proper. Hence, no interference is required in it.

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

5. To prove the income of deceased the Claimant's have examined the Claimant No.1, she has stated that, deceased was doing mason work and he was getting Rs.550/- per day and his

monthly income was Rs.16,500/- per month, while dealing with this issue, the Tribunal has observed that, considering the nature of work of the deceased, the Tribunal has considered monthly income of deceased at Rs.12,000/- per month. I do not find infirmity in it.

6. In my view, the deceased doing mason work, as per prevailing Minimum Wages Act mason work comes under the category of skilled work, Grade-II and the Minimum Wages for skilled work was Rs.637/- per day, it would go more than Rs.19,000/- per month. Hence, income of Rs.12,000/- considered by the Tribunal is proper and no interference is required in it and I pass following order.

ORDER

- (i) The Appeal is dismissed.
- (ii) The Respondents/Claimants are permitted to withdraw amount deposited by the Appellant-Insurance Company along with accrued interest.
- (iii) The statutory amount along with interest be transferred to the Tribunal. The parties are at liberty to withdraw it as per Rules.
- (iv) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)