IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 814 OF 2019

Reliance General Insurance Co. Ltd Through Its Corporate Office 4th Floor, Chintamani Avenue Off Western Express Highway, Goregaon – East, Mumbai.	…	Appellant (Original Non-Applicant)
versus		
1. Jaya Jagdish Aapte Age: 53 years, Occ: Nil 2. Jagdish Shripad Aapte Age: 54 years, Occ: NIL Both r/o Aajara Tah. Aajara District : Kolhapur 3. Babusha Gundappa Bhoj Adult Occ: Business R/o. Ambed, Post Ranjane Tal. Veha, District – Pune.	…. …. …. ….	Orig. Applicant No.1 Orig. Applicant No.2 Org. Non-Applicant No.2 Respondents

Mr. Nikhil Mehta i/b KMC Legal Venture , Advocate for the Appellant.
Mr. Yuvraj P. Narvankar a/w Ms. Raufa Shaikh, Advocate for Respondent Nos.1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th MARCH, 2024.

Oral Judgment. :

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

2. It is contention of learned counsel for the appellant-Insurance

SHUBHADA SHANKAR KADAM

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Company that the deceased was working as Business Development Coordinator and her last drawn salary was Rs.15,133/- per month but the Tribunal has considered her monthly income at Rs.15,460/-, which is on higher side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent Nos.1 and 2/claimants that the deceased was working as Business Development Coordinator and her monthly income was Rs.15573/- per month. While calculating the compensation, the Tribunal has considered average income of three months, which is proper. The Tribunal has considered all the aspects while passing the order. No interference is required in it.

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

5. To prove the income of the deceased, the claimants have examined PW2-Pravin Barathe, H.R.Manager in Matrix Business Machines.. He has stated that the deceased was working in his company as Business Development Coordinator and he has produced salary slips of the deceased from July 2015 to October 2015, which are at “Exhibits-41 to 45”. The salary of the deceased for the month of July 2015 was Rs.15,780/-, for August 2015 was Rs.16,066/- and for September 2015 was Rs.15133/-. She was on probation for six months, hence, the salary was being paid on the basis of actual attendance of the duty. Nothing elicited in the cross-examination of this witness. While dealing with the

issue of income, the Tribunal has considered three months' average salary of deceased at Rs.15660/- per month and has deducted professional tax of Rs.200/- and has considered the salary of deceased at Rs.15460/- per month. The Tribunal has considered actual salary of the deceased. I do not find infirmity in it.

5.1. It is contention of learned counsel for the appellant-Insurance Company that the Tribunal should have considered last drawn salary of deceased at Rs.15133/-. In my view, the salary slips shows variation in the salary and PW2 has stated that the salary had been paid on actual attendance of duty, on that basis, the Tribunal has considered average salary, which is proper.

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

O R D E R

1. The appeal is dismissed. No order as to cost.
2. Respondent Nos.1 and 2/claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
3. 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. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)