

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

FIRST APPEAL NO.214 OF 2023

Reliance General Insurance Co. Ltd., } 4 th Floor, Chintamani Avenue, Western } Express Highway, Next to Virvani } Industrial Estate, Goregaon (E), } Mumbai-400053. }	...Appellant
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Versus

1. Smt.Bindu Santosh Prajapati } Age-36 years, Widow of the Deceased } 2. Miss Sanjana Santosh Prajapati } Age-14 years, Minor Daughter of the } deceased } 3. Master Satish Santohs Prajapati } Age-10 years, Minor Son of the deceased } The Applicant Nos.2 and 3 are minors } through their next friend, natural Guardian } & Mother. } } All R/at Shivneri Vidyalaya, 30 Geet Road, } Galli No.18, Indira Nagar, Shivaji Nagar, } Mandala Mankurd, Mumbai-400043 } 4. Mr.Ajinath Prakash Talekar } At Bhavani Nagar, Tembhurni Taluka- } Madha, District-413211 } Owner of M/Tempo (Eicher) No.MH-45- } AF-9545 }	Respondents
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Ms.Shalini Shankar, for the Appellant.
 Mr.Jitendra Gor, for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th FEBRUARY 2024

ORAL JUDGMENT :-

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

2. It is contention of the learned counsel for the Appellant-Insurance Company that, the Tribunal has considered monthly income of the deceased at Rs.18,000/- per month, without any evidence on record, which is on higher side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondents-Claimants that, at the time of the accident the deceased was serving as a Logistic Field Executive with Swifto Services Pvt. Ltd., and he was getting salary of Rs.20,000/- per month, but the Tribunal has considered Rs.18,000/- per month, which is proper. Hence requested to dismiss the Appeal.

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 Claimant No.1-Bindu Prajapati at Exhibit-18 widow of the deceased. She has stated that, the deceased was working as Logistic Field Executive with Swifto Services Pvt. Ltd., and he was getting salary of Rs.24,000/- per month. In support of evidence of PW-1, the Claimants have examined PW-2 Mr.Anis, Supervisors of Swifto Services Pvt Ltd., he has stated that, the deceased Santosh was working as a delivery man in their company and his salary of Rs.18,000/- per month. The Claimant's have examined PW-3 Tayyappa Dhangar, Director of Swifto Services Pvt. Ltd. He has stated that, he used to pay Rs.18,000/- per month and incentives to the deceased. Salary certificate is at Exhibit-30. Considering the evidence on record the Tribunal has considered monthly income of deceased at Rs.18,000/- per month. I do not find infirmity in it.

6. In my view, the PW-2, 3 and 4 have categorically stated that the deceased was working in their company and he was getting salary of Rs.18,000/- per month. There is no reason to disbelieve their evidence.

7. In view of above, I pass following order.

ORDER

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

(SHIVKUMAR DIGE, J.)