IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.288 OF 2024

Reliance General Insurance Co. Ltd., }
Thr. Its Corporate Office, }
4th Floor, Chintamani Avenue, Off Western }
Express Highway, Goregaon (E), }
Mumbai. } **...Appellant**

Versus

1. Kum.Darshana Sandeep Surana }
Age-16 Years Occ: Study }

2. Pushpabai Prakashchandra Surana } (FA stand dismissed against R No.2 and 3 vide order dt.06/05/24)
Age-60 years, Occ: Household }
Applicant No.1 represented by Applicant No.2, Since minor
All are R/at Kasampura, Taluka-Pachora, District-Jalgaon

3. Vivek Transport } (FA stand dismissed against R No.2 and 3 vide order dt.06/05/24)
J-302, West Avenue CHS Station Road, }
Nalasopara, Vasai, District-Thane-92 }

4. Sheetal Ramnlal Bafna }
Age-37 years, Occ: Services }
R/at Abhilasha Society, 3rd Floor, Room }
No.10, Kothrud, Pune } **....Respondents**

WITH
CROSS OBJECTION (ST) NO.14316 OF 2022

1. Kum.Darshana Sandeep Surana }
Age-21 Years Occ: Student }

R/at Abhilasha Society, 3rd Floor, Room No.8, Kothrud, Pune }

2. Sheetal Ramnlal Bafna }
Age-37 years, Occ: Services }
R/at Abhilasha Society, 3rd Floor, Room No.8, Kothrud, Pune } **….Applicant**

IN THE MATTER BETWEEN

Reliance General Insurance Co. Ltd., }
Thr. Its Corporate Office, }
4th Floor, Chintamani Avenue, Off Western Express Highway, Goregaon (E), }
Mumbai. } **….Appellant**

V/s.

1. Kum.Darshana Sandeep Surana }
Age-20 Years Occ: Study }

2. Pushpabai Prakashchandra Surana } (FA stand dismissed against R No.2 and 3 vide order dt.06/05/24)
Age-60 years, Occ: Household }
All are R/at Kasampura, Taluka-Pachora, District-Jalgaon }

3. Vivek Transport } (FA stand dismissed against R No.2 and 3 vide order dt.06/05/24)
J-302, West Avenue CHS Station Road, Nalasopara, Vasai, District-Thane-92 }

4. Sheetal Ramnlal Bafna }
Age-39 years, Occ: Services }
R/at Abhilasha Society, 3rd Floor, Room No.10, Kothrud, Pune } **….Respondents**

Mr.Rahul Mehta i/b KMC Legal Venture, for the Appellant.

Mr.Kaustubh Thipsay, for the Respondents in FA No.288 of 2024.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th JULY 2025

ORAL JUDGMENT :

. This Appeal is preferred by the Appellant-Insurance Company against the judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Nashik. The Respondents-Claimants have also preferred Appeal for enhancement of the compensation. As Appeal and Cross Objection are against the same judgment and order, I am deciding it by this common judgment.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, the cheque which was issued for the premium of the Insurance Policy was dishonored. The Insurance Company is not liable to pay the compensation, but the Tribunal has passed pay and recover order, which is erroneous.

3. The learned counsel further submitted that, the

accident occurred due to sole negligence of the driver of the vehicle in which the Claimant was occupant. The driver of the offending car was not holding effective and valid driving license but these facts are not considered by the Tribunal. Hence, requested to allow the Appeal.

4. It is contention of learned counsel for the Respondents-Claimants that, at the time of accident, the Claimant was 9 years old and she has suffered 41% permanent physical disability. Due to injuries to brain, her Intelligence Quotient ('IQ' for short) was reduced. She had multiple fractures, but the Tribunal has awarded compensation on lower side under other heads. Hence, requested to dismiss the Appeal and allow the Cross Objection.

5. I have heard both learned counsel. Perused judgment and order passed by the Tribunal.

6. While dealing with the issue of dishonor of cheque, the Tribunal has observed that, as there was breach of Terms and Condition of the Insurance Policy and relying on the decision of the Hon'ble Apex Court and this Court, the Tribunal has passed

pay and recover order, I do not find infirmity in it.

7. Though it is contention of the learned counsel for the Appellant-Insurance Company that, driver of the offending vehicle was not holding effective and valid driving license but no evidence is produced on record in that regard. Moreover, the vehicle in which the Claimant was occupant was dashed by the offending vehicle, so no question of the negligence of vehicle driver of the Claimant arises.

8. Admittedly, due to accidental injuries, the Claimant has suffered 41% permanent physical disability, her disability is not challenged. It has come in the evidence of PW-3 Dr.Rahul Baviskar that after examining the patient, her general condition was okay. Her general understanding appears to be low as normal patient. He advised Psychological assessment for the complaint of memory impairment and Scholastic backwardness. The evidence of this witness shows that, due to accidental injuries, the Claimant has suffered some neurological problem. She had suffered multiple injuries. The Tribunal has given Rs.92,250/- under head of the loss of income due to permanent physical disability.

Considering injuries suffered to brain, and her I.Q. was lowered, I am considering Rs.3 lakhs including Rs.92,250/-.

9. The Tribunal has awarded Rs.1,49,000/- for pain and suffering, I am considering it at Rs.2 lakhs. The Tribunal has not awarded amount for loss of amenities in life, I am considering it at Rs.1 lakh. The Tribunal has awarded Rs.10,000/- for special diet, I am considering it at Rs.25,000/-. The Tribunal has awarded Rs.25,000/- for conveyance, I am considering it at Rs.50,000/-. Considering the above calculations, the Claimant is entitled for following compensation.

Particulars	**Amount**
Expenses incurred for Hospitalization & Medical Expenses	Rs.2,06,280.00
Loss of Income/Earning Capacity due to permanent disability	Rs.3,00,000.00
Pain and Suffering	Rs.2,00,000.00
Expenses towards plastic surgery	Rs.1,50,000.00
Towards Nutritious Diet	Rs.25,000.00
Transportation During Hospitalization	Rs.50,000.00
Towards Educational Loss	Rs.50,000.00
Attendant	Rs.20,000.00
Marriage/Enjoyment	Rs.1,00,000.00
Total	**Rs.11,01,280.00**

Tribunal awarded	Rs.6,53,350.00
Enhancement with interest @7.5%	**Rs.4,47,930.00**

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

ORDER

(i) The Appeal is dismissed.

(ii) The Cross Objection is allowed.

(iii) The Claimant is entitled for enhanced amount of Rs.4,47,930/- @ 7.5% per annum from the date of filing of the Claim Petition till realization of the amount.

(iv) The Respondent-Insurance Company shall deposit the enhanced amount along with interest thereon within six weeks after receipt of the order.

(v) The Appellant-Insurance Company can recover the compensation and enhanced amount along with interest thereon from the owner of the vehicle as observed by the Tribunal.

(vi) The statutory amount alongwith interest be transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.

(vii) Record and Proceedings be sent back to the Tribunal.

(viii) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)