

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

FIRST APPEAL NO.400 OF 2024

Reliance General Insurance Co. Ltd.	}	
Having its Office RGICL	}	
4 th Floor, Chintamani Avenue, Opposite	}	
Virvani Industrial Estate, Goregaon (E),	}	
Mumbai-400063.	}	...Appellant

Versus

1. Mr.Mohd. Mustakim Suslim Shah	}	
Age-22 years,	}	
R/at Room No.103, Plot No.64,	}	
Ladar Gomes Compound, Sakinaka,	}	Original
Mumbai-400072	}	Applicant

2. Mr.Fakruddin M. Choudhary	}	
66, Mohipada, Karivali Post-Shahpur,	}	
District-Thane-400601.	}	...Respondents

Ms.Shalini Shankar, for the Appellant.
Mr.Varsha Chavan, for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JUNE 2025

ORAL JUDGMENT :-

. The issue involved in this Appeal is, after the accident

the Respondent-Claimant continued in work.

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2. It is contention of learned counsel for the Appellant-Insurance Company that, the Claimant was working as a cleaner on truck. Due to accidental injuries his left leg above knee is amputated. After the accident the Appellant is running pan shop, so he is continued in working and he is earning the income, but this fact is not considered by the Tribunal. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, before the accident the Claimant was working as cleaner on truck, but due to amputation of leg he could not continued his service and was forced to do some work for his livelihood. The Tribunal has passed well reasoned order. No interference is required in it and 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. As per contention of the learned counsel for the Appellant-Insurance Company, the Respondent-Claimant is

running pan shop, hence he has source of income, hence he is not entitled for compensation. In my view, before accident Respondent-Claimant was working as cleaner on truck with Anmol Road lines but due to amputation of leg, he is forced to leave his job. At the time of the accident he was 22 years old. He is karta of his family and to maintain family if he is doing some work, it cannot be a ground to deny the compensation received for loss of his leg. The said income cannot be considered as a reason to say that, his earning capacity has not gone. Considering these facts, I pass following order.

ORDER

- (i) The Appeal is dismissed.
- (ii) The Respondents-Claimants are permitted to withdraw the amount deposited by the Appellant along with accrued interest thereon, if not withdrawn.
- (iii) The statutory amount alongwith interest be transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.

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

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

(SHIVKUMAR DIGE, J.)