

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1143 OF 2025

Reliance General Insurance Co. Ltd.
 4th Floor, Chintamani Avenue
 Off Western Express Highway, Ahead to Virwani
 Industrial Estate, Goregaon-East,
 Mumbai – 400 063

... Appellant

Versus

- 1 Sushama Maruti Jadhav
Aged 53 years, Occu - Housemaker
- 2 Shraddha Maruti Jadhav
Aged 30 years, Occu - Housemaker
- 3 Sagar Maruti Jadhav
Aged 24 years, Occu – Nil
All R/o. Khirkandi, Post Donvat, Tal. Khalapur,
District - Raigad
- 4 Ashok Aatmaram Jadhav
Age 53 years, Occu. Service
R/o. Khirkandi, Post Donvat
Taluka Khalapur, District Raigad

... Respondents

.....

Ms. Shalini Shankar, Advocate for the Appellant.

Mr. S.S. Jinsiwale i/b. Mr. Sanjay Ghaisas, Advocate for Respondent Nos. 1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATED : 4th JULY, 2025.

ORAL JUDGMENT :

1. The issue involved in this appeal are driver of offending car was not holding effective and valid driving licence and income of the deceased is considered on higher side.

2. It is contention of learned counsel for the appellant that accident occurred when the deceased was travelling in the car and the driver of Maruti car dozed off, due to which he lost control over the car and car fell down in the river. Learned counsel further submitted that the Tribunal has considered monthly income of the deceased around Rs.54,418/-, which is on higher side. Learned counsel further submitted that at the time of accident, driver was not holding effective and valid driving licence and interest awarded on compensation amount is on higher side, hence requested to allow the appeal.

3. It is contention of learned counsel for respondent Nos.1 to 4/ claimants that the deceased was working in the company and he was getting monthly salary of more than Rs.67,340/- but the Tribunal has considered his monthly income at Rs.54,480/-, which is on lower side. Learned counsel further submitted that the deceased was occupant in the car so question of his negligence would not arise. No evidence is produced on record by the appellant to show that driver of offending car was not holding effective and valid driving licence. The Tribunal has passed well reasoned order, no interference is required in it and requested to dismiss the appeal.

4. I have heard both the learned counsel. Perused Judgment and Order passed by Motor Accident Claims Tribunal, Alibag (for short “the

Tribunal”). It is claimants’ case that, on 28.01.2023 the deceased Maruti Jadhav was traveling by Ertiga car when he was proceeding in said car. At about 3.30 a.m., the driver of the said car lost his control over the car because of dizziness and car fell down in the river. In the accident, the deceased got seriously injured and died. To prove the income of the deceased, the claimants have examined claimant No.1 Sushma Jadhav. She has stated that the deceased was serving in Uttaram Galva Company, Khopoli and getting salary of Rs. 67,340/- per month. To prove the income of the deceased, the claimants have examined PW-2 Jyoti Kajale, executive IR in AMNS Khopoli. She has stated that the deceased was employee of their company since 01.06.1988. He was permanent employee and he was getting salary of Rs.54946/- per month. The salary slips are at Exhibit-39 to 45 and Form No.16 is at Exhibit-46. Considering the evidence on record, the Tribunal has considered monthly income of the deceased at Rs.54,418/-. I do not find infirmity in it. In my view, Form No.16 and salary slips of the deceased produced on record proves his salary. Hence I do not find infirmity in it. Though, learned counsel for the appellant /Insurance Company has stated that driver of offending vehicle was not holding effective and valid driving licence, no evidence is produced on record to prove the said defence. The Tribunal has awarded @ 9% interest on compensation amount, it is on higher side, I am considering it @7.5%

per month.

5. Learned counsel for the claimants submitted that consortium amount is given on lower side. As per the view of Hon'ble Apex Court in the case of *Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)*, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. The Tribunal has given total consortium amount of Rs.1,50,000/- it should be Rs.1,80,000/-. The claimants are entitled for Rs.30,000/-.

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

ORDER

- i. The appeal is partly allowed.
- ii. The respondent Nos. 1 to 4 / claimants are entitled for @7.5% p.a. on compensation amount awarded by the Tribunal from the date of filing claim petition till realisation of the amount.
- iii. The claimants are entitled for enhanced amount of Rs.30,000/- along with @7.5% interest on it from filing of the Claim Petition till realisation of the amount. The appellant / Insurance Company is permitted to withdraw excess interest amount out of deposited amount.
- iv. The statutory amount along with accrued interest be

transferred to the Tribunal. Parties are at liberty to withdraw it as per rule.

- v. R & P be sent back to the Tribunal.
- vi. All pending applications, if any also disposed of.

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2025.07.15
10:35:13
+0700

(SHIVKUMAR DIGE, J.)