

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

FIRST APPEAL NO.1183 OF 2024

Reliance General Insurance Co. Ltd.	}	
4 th Floor, Chintamani Avenue,	}	
Next to Virmani Industrial Estate,	}	
Off Western Express Highway, Goregaon	}	
East, Mumbai-400063.	}	...Appellant

Versus

NILAM
SANTOSH
KAMBLE

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1. Shri.Mujip @ Mujeeb Nijam Sayyad	}	
Father of Deceased, Age-47 Years	}	

2. Smt.Sultana Mujip @ Muheeb Sayyad	}	
Mother of deceased, Age-37 years,	}	
Both R/at 4A-62, Saidham Society,	}	
MMRDA Colony, Near Durga Nagar, JVL R,	}	
Jogeshwari (E), Mumbai-400060	}	

3. Mr.Zinjad Laxman Sopan	}	
Malwadi Randhe Darodi, Tal-Parner,	}	
District-Ahemadnagar-414305	}	...Respondents

Mr.Avesh A. Ghadge i/b Mr.Akshay Kulkarni, for the Appellant.
Mr.Vasant N. More, for Respondent Nos.1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th JANUARY 2025

ORAL JUDGMENT :-

. The issues involved in this Appeal is income of the

deceased is considered on higher side and at the time of the accident the driver of the vehicle was not holding effective and valid driving license.

2. It is contention of the learned counsel for the Appellant that, at the time of accident driver of vehicle was not holding effective and valid driving license. The learned counsel further submitted that, the Tribunal has considered monthly income of the deceased at @ Rs.17,000/- 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 Respondent-Claimant that, the deceased was working as helper in Kraft Box Industries and he was getting salary of Rs.17,000/- per month. The learned counsel further submitted that, no evidence is produced on record by the Appellant-Insurance Company regarding driving license. The Tribunal has passed well reasoned order. No interference is required in it. 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 the deceased, the Claimant's have examined Claimant No.1. He has stated that, the deceased was his son and he was working as office boy with Kraft Box Industries and getting salary of Rs.17,000/- per month. In support of PW-1, the Claimant's have examined PW-2-Mallesh. He was the Operator in Kraft Box Industries. He has stated that, the deceased was working as helper in their company and his salary was at Rs.17,000/-. The salary Certificate is at Exhibit-29. Considering the evidence on record the Tribunal has considered monthly income of deceased at Rs.17,000/- per month. I do not find infirmity in it.

6. In my view PW-2 has produced Salary Certificate of deceased and as per salary certificate the Tribunal has considered monthly income of the deceased which is proper. Though Appellant-Insurance Company has taken defence that at the time of accident driver of the offending vehicle was not holding valid and effective driving license. But no evidence is produced on

record. Hence, I do not find infirmity in it. Considering these facts, I pass following order.

ORDER

- (i) The Appeal is dismissed.
- (ii) The Claimant's are permitted to withdraw deposited amount 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) Record and Proceedings be sent back to the Tribunal.
- (v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)