IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1211 OF 2024

	Reliance General Insurance Co. Ltd., Kalpataru, Prime, Ashar Compound, Road No.16, Wagle Estate, Thane	…..	Appellant (Original Respondent No.2)
	V/s.		
1	Manisha Vishwanath Vibhute, Age : 53 years, Occ. Service, (Widow of Deceased)		
2	Aishwarya Vishwanath Vibhute, Age : 24 years, Occ. Education, (Daughter of Deceased)		
3	Jayesh Vishwanath Vibhute, Age : 27 years, Occ: Education, (Son of the Deceased)		
4	Raghunath Ganpat Vibhute, Age : 78 years, Occ. Nil, (Father of the Deceased) Nos.1 to 4 are R/at B/G-24, Gururaj CHS, Near Gurukul CHS, Panchpakahadi, Thane.		
5	M/s. Aaron Tours Pvt. Ltd., Director Agnes Lewis, Shop No.4, Ground Floor, Gayatri Krupa Estate, Opp. H.P. Petrol Pump, LBS Marg, Vikhroli, Mumbai – 79, (Owner of the Motor Bus bearing No.MH-03/CP-7375)		Respondents (Nos.1 to 4 are Original Claimants and No.5 is Original Respondent No.1)

Mr. Akshay Kulkarni along with Mr. Avesh Ghadge, Advocates for the Appellant(Through VC).
Ms. Rina Kundu, Advocate for Respondent Nos.1 to 4/Original Claimants.

CORAM : R.M. JOSHI, J.

DATE : 19th DECEMBER 2025

Oral Judgment:-

1. At the outset, learned counsel for the respondents/original claimants filed compilation of document/evidence on record, a copy of which is already made over to the other side. By consent of both sides, heard finally at the stage of admission.

2. This appeal takes exception to the judgment and order dated 25th August 2023 passed in MACP No. 54 of 2019 whereby the death claim filed by the claimants was allowed and, the owner and insurer of the offending vehicle were directed to jointly and severally pay the sum of ₹88,86,950/- along with interest @ 8% interest per annum from the date of filing of the petition till realization of the amount.

3. There is no dispute, made by the original opponent with regard to the factum of accident and the involvement of the offending vehicle in the said accident. Further, it is not in dispute that the deceased was riding motorcycle and in the said accident, he sustained injuries and succumbed thereto.

4. The present appeal has been filed on the ground that there is negligence on the part of the deceased in causing of the said accident as he was riding the motorcycle in zigzag manner, so also

he did not wear a helmet at the relevant time. Insofar as the quantum of compensation granted by the Tribunal, the income tax returns sought to be relied upon are filed after the death of the deceased, and therefore the Tribunal committed an error in accepting the same. Similarly, objection is raised with regard to the rate of interest granted by the Tribunal, which is excessive according to the appellant.

5. Learned counsel for the appellant submits that the police papers indicate that the deceased has contributed in the occurrence of the accident. It is his further submission that on the basis of income tax returns, the Tribunal could not have granted compensation, ignoring the fact that there was no loss of income for the claimants. It is also submitted that the Tribunal has granted interest at the rate of 8%, which is excessive in nature.

6. Learned counsel for the claimants supported the impugned judgment and award, however, contended that the Tribunal has erred in not granting consortium to two claimants, she therefore seeks enchancement of the compensation.

7. Insofar as the initial burden on the claimants to prove the factum of accident and the negligence on the part of offending vehicle is concerned, the evidence in the form of police papers, proves the case of the claimants on probability. Admittedly, no

evidence is led by the owner or insurer of the said vehicle. Having regard to these facts, it cannot be said that the deceased has contributed in any manner in occurrence of the accident.

8. As far as the income of the deceased is concerned, the claimants apart from examining one of the claimant, also led evidence of Income Tax Officer to prove the income tax returns. Perusal of cross examination of this witness, as well as the cross examination of the claimant, does not show any specific objection to the genuineness of the income tax returns being raised by the insurer. Thus it is not open for the insurer to take exception to the amount of compensation determined by the Tribunal on the basis of proved income. Hence, there is no merit in the appeal.

7. The rate of interest granted by the Tribunal is not excessive in order to term it as perverse. And so far as enhancement, sought by the claimants, the said contention is supported by the judgment of the Honorable Supreme Court in the case of ***National Insurance Co. Ltd. vs. Pranay Sethi, 2017 ACJ 2700 (SC) and Pappu Deo Yadav v. Naresh Kumar & Others, AIR 2020 SC 4424.*** Hence, over and above the compensation granted by the Tribunal, the claimants would be entitled to receive a sum of ₹96,000/- at the rate of 8% interest from the date of filing of the petition till realization of the amount..

8. Considering the above reasons, I pass following order :

O R D E R

1. The appeal is dismissed. No order as to cost.
2. Claimants are entitled for an additional amount of Rs.96,000/- towards consortium amount @ 8 % interest per annum from the date of filing of claim petition till realisation of the amount.
3. The appellant is directed to deposit the additional amount along with accrued interest thereon within four weeks from the receipt of this order.
4. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
5. The statutory amount be transferred to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

9. Pending applications, if any, stand disposed of.

(R.M. JOSHI, J.)