

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1230 OF 2024

Reliance General Insurance Co. Ltd. }
4th Floor, Chintamani Avenune, }
Opp. Western Express Highway, }
Near Virvani Industrial Estate, Goregaon }
(E), Mumbai. } ... Appellant

Versus

NILAM
SANTOSH
KAMBLE

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- 1. Nandita Niwas Mhatre** }
Age-36 years, Occ: Household }
}
- 2. Arya Niwas Mhatre** }
Age-16 years, Occ: Education }
}
- 3. Astiv Niwas Mhatre** }
Age-8 years, Occ: Education }
}
- 4. Shri. Jana Padaji Mhatre** }
Age-73 years, Occ: Nil }
}
- 5. Smt. Tulsabai Jana Mhatre** }
Age-70 years, Occ: Household }
(Respondent Nos.2 and 3 under Guardian }
of Respondent No.1) }
Nos.1 to 5 are R/at Bamandongari, }
Taluka-Panvel, District-Raigad. }
- 6. Deepak Logistick & Forwards** }
Through Manager, }
Office No.505/506, }
The Landmark Building, Plot No.26A, }

Sector-7, Kharghar, Taluka-Panvel, }
 District-Raigad. } ... **Respondents**

Mr.Avesh Ghadge i/b Mr.Akshay Kulkarni, for the Appellant
 (Through VC).

Mr.Swapnil N. Kale a/w Mr.Advait Kulkarni, for the
 Respondents.

CORAM : R.M. JOSHI, J.

DATE : 11th DECEMBER 2025

ORAL JUDGMENT :

. By consent of both sides heard finally at the stage of
 admission.

2. This Appeal is against judgment and award dated 26th
 March 2024 passed in MACP No.44 of 2017 whereby the
 Claimants are granted compensation of Rs.56,46,352/- @
 interest 7% per annum from the date of the order till realization
 of the amount.

3. It is case of the Claimant that on 12th November 2016
 deceased was proceeding on his motor-cycle bearing No.MH-
 06/AR-8002 from Jasai to Gavhan Phata and when he reached to
 the spot of accident, a trailer bearing registration No.MH-46/AF-
 8463 dashed the motor-cycle from behind. In the said accident

deceased sustained serious injuries and succumbed therein. He required hospitalization. According to the Claimant he was working with Shri Mahalaxmi Krupa Services Pvt. Ltd and earning Rs.25,586/-. The deceased was 29 years old.

4. The Respondent-Owner of the offending vehicle failed to appear before the Tribunal and Petition proceeded ex-parte against him. Insurer filed Written Statement denying the liability of payment of compensation. The contention of the Claimants is denied so also it is claimed that there is breach of condition of policy and the deceased was negligent in the occurrence of the accident.

5. The Claimant lead evidence. No evidence was led by the Insurer.

6. The learned counsel for the Appellant submits that the Appellant-Insurer has raised the issue of negligence so also issue of the driver of the offending vehicle not holding valid and effective driving license at the relevant time. It is his further submission that the learned Tribunal has committed error in considering income of deceased on higher side.

7. The learned counsel for the Respondent-Original Claimant supported the impugned judgment and award. It is however his contention that the Tribunal has erred in not granting interest from the date of Claim Petition and hence the judgment requires modification to that effect. He placed reliance on the judgment of the Hon'ble Supreme Court in case ***Pappu Deo Yadav vs Naresh Kumar***¹, to argue that, even without filing of Cross-Objection or Appeal, he can seek enhancement of the compensation.

8. Though, the Appellant-Insurer has raised the defences of negligence as well as breach of condition of the policy, there is absolutely no evidence led to support the same before the Tribunal. On the other hand the Claimants have successfully proved the accident, involvement of motor vehicle as well as negligence on the part of the driver of offending vehicle in occurrence of the accident. Similarly, the Claimants led evidence to indicate the age and income of the deceased. Having regard to the evidence on record, the findings recorded

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by the Tribunal are not perverse to cause any interference therein, the Appeal therefore deserves to be dismissed.

9. Insofar as the interest granted by the Tribunal, unless the reason recorded for not granting the interest from the date of the filing Claim Petition, the Tribunal was not justified in denying the interest for the period from the date of the Claim Petition till passing of the order. Hence, impugned judgment and award deserves modification to that effect. It is held that the Claimants are entitled to get interest @ 7% on the amount of the compensation from the date of filing of the Petition till realization of the amount. Hence, order.

ORDER

(i) The Appeal stands dismissed. However impugned judgment and award dated 26th March 20224 passed by Motor Accident Claims Tribunal, Mumbai ('MACT' for short) in MACP No.44 of 2017 is modified.

- (ii) The Claimants shall be entitled to receive interest @ 7 per annum from the date of filing Claim Petition till realization of the the amount.
- (iii) Rest of the order to remain unchanged.
- (iv) The Original Claimants are permitted to withdraw the enhanced amount along with accrued interest thereon.
- (v) Record and Proceedings be sent back to the Tribunal.
- (vi) All pending Applications are disposed of.

(R.M. JOSHI, J.)